DOCUMENT RESUME

ED 124 762 95 CE 007 390

AUTHOR Delaney, William
TITLE The Transition from School to Work: A Study of Laws, Regulations and Practices Restricting Work Experience and Employment Opportunities for Youth. Final Report.
INSTITUTION National Committee on Employment of Youth, Washington, D.C.
SPONS AGENCY Office of Education (DHEW), Washington, D.C.
REPORT NO VT-102-911
PUB DATE Jun 75
GRANT OEG-0-74-0-1651
NOTE 147p.

EDRS PRICE MF-$0.83 HC-$7.35 Plus Postage.
DESCRIPTORS *Child Labor Legislation; Community Involvement; Employer Attitudes; *Employment Opportunities; *Employment Practices; Federal Legislation; *Labor Legislation; Socioeconomic Influences; State Legislation; Surveys; Work Experience Programs; *Youth Employment

ABSTRACT

Factors affecting the nonagricultural employment of youth are examined in the research study. Chapters in the report discuss a brief history of child labor laws in the United States; the links between the economy and the social goals of society and how child labor laws reflect and yet sometimes contradict economic realities; the economics of the youth labor market; specific Federal and State Laws that affect youth employment; the issues and programs concerning the supplementation of education through work experience; and the results of an employer survey conducted for the study in which 149 persons in 78 firms were personally interviewed regarding hiring policies for youth and knowledge of child labor statutes. The major recommendation of the investigation is to start a new process at the community level in which employers, unions, schools, parents, young people, and all interested citizens work together to remove unnecessary barriers to youth employment. Recommendations also include the necessity for a readable compendium of laws for each State as part of an active information system, further relaxation of laws to facilitate participation of 14 and 15 year olds in work experience programs, and elimination of State and Federal overlap in legal coverage. A bibliography and sources for child labor laws are included. (Author/RG)

****
* Documents acquired by ERIC include many informal unpublished *
* materials not available from other sources. ERIC makes every effort *
* to obtain the best copy available. Nevertheless, items of marginal *
* reproducibility are often encountered and this affects the quality *
* of the microfiche and hardcopy reproductions ERIC makes available *
* via the ERIC Document Reproduction Service (EDRS). EDRS is not *
* responsible for the quality of the original document. Reproductions *
* supplied by EDRS are the best that can be made from the original. *
****

NATIONAL COMMITTEE ON EMPLOYMENT OF YOUTH

...E NATIONAL CHILD LABOR COMMITTEE

OPPORTUNITY FOR YOUTH | PROTECTION OF CHILDREN

115 east 32nd street
new york, n. y. 10016
(212) 683-4545

ED124762

THE TRANSITION FROM SCHOOL TO WORK: A STUDY OF LAWS, REGULATIONS AND PRACTICES RESTRICTING WORK EXPERIENCE AND EMPLOYMENT OPPORTUNITIES FOR YOUTH

Final Report

June 1975

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

Staff: Seymour Lesh, Project Director
William Delaney, Principal Investigator and Research Director
Bryna Fraser, Research Assistant
Kenneth Mostow, Research Assistant

CE007890

This report was prepared for the Office of Education, U.S. Department of Health, Education, and Welfare, under grant No. OEG-0-74-0-1651. Since contractors conducting research projects under Government sponsorship are encouraged to express their own judgment freely, this report does not necessarily represent official opinion or policy. The contractor is solely responsible for the content of this report.

F O R E W O R D

This is the final report on the effect of child labor laws on youth employment and work experience programs. The investigation led beyond the traditional child labor laws, to other laws that are age specific, and thus is broader in scope than originally contemplated.

The National Committee on Employment of Youth (NCEY) is an arm of the National Child Labor Committee, a private, voluntary agency dedicated to helping increase the effectiveness of those working directly with children and youth, by conducting research, planning, staff training, technical assistance, information services, and demonstration programs for agencies and institutions throughout the country.

The research, field interviews, analysis of data and writing of this report were conducted by The National Manpower Institute (NMI) under a subcontract with NCEY. The Institute was established by a group of corporate and academic leaders for the purpose of helping to better meet the nation's manpower needs.

The research for the project was directed by William Delaney, assisted by Bryna Fraser and Kenneth Mostow.

The findings of the report were reviewed and edited by Eli E. Cohem, former Executive Secretary of NCEY and Consultant on Vocational Education, New York City Board of Education; John M. Gentry, Executive Vice President, NMI; Paul Benton, Staff Director, NMI; and the undersigned.

Seymour Lesh, Associate Director
National Child Labor Committee

VT 102 411

TABLE OF CONTENTS

I. Preface.....I-1

II. Introduction - "The Evil of Child Labor".....II-1

III. "The Politics of Adolescence".....III-1

IV. The Youth Labor Market and the Role of Law.....IV-1

V. The Legal Framework.....V-1

VI. Work Experience - Concepts and Programs.....VI-1

VII. The Survey Research.....VII-1

VIII. Some Policy Directions.....VIII-1

IX. Bibliography and Sources for Child Labor Laws.....IX-1

I. Preface

Child labor standards were a capstone of the social reform movement that matured in the Great Depression. The basic child labor law is contained in the Fair Labor Standards Act of 1938, but there are many supplemental laws including child labor statutes for each state. The operating philosophy of all child labor laws is the controlled labor force entry of youth during the four or five year period from adolescence to maturity.

Support for and opposition to child labor laws reflected cultural complexities and economic demands. Basic values of work and education are inherent in both proscriptions and exceptions. The legal intent of child labor law was to balance participation and exclusion but the enforcement system and the social approbation of child labor tended toward an emphasis on the exclusive and negative aspects of the laws.

A variety of strong forces are found to be operating in the teenage labor market. These have to do with experience and how it is obtained, the attitudes held toward the young, the extent to which youth are thought to be responsible, and the limits of availability imposed by school attendance schedules. These forces in combination are stronger than what the laws themselves permit and prohibit. The larger dynamics of the youth employment situation are thereby examined in order to gain necessary perspective.

Whatever these larger forces, many laws affect youth employment. Generally child labor laws forbid employment below age 14, strongly limit employment at ages 14 and 15, and have some effect at ages 16 and 17 and do not apply at 18 and beyond. There are numerous specific prohibitions and limits such as minimum ages, maximum daily and weekly hours, industrial and occupational restrictions, registration requirements and nightwork prohibitions. Other laws

affecting youth employment include school attendance requirements, workmen's compensation, licensing requirements, alcoholic beverage laws and the now suspended military draft. Insurance rates may also be a factor. An initial exploration of these laws and practices is made in this study.

An employer survey of 149 persons in 78 firms in 6 cities was the primary field research performed for this study. Youth employment (17 and under) was iess than 3 percent in these firms. A majority of firms did not hire youth as a matter of policy. Fifty-four firms were subject to hazardous orders and 3 out out of 5 such firms did not hire persons less than 18. Only 22 percent of respondents in the survey were judged as having 'excellent' or 'good' knowledge of child labor statutes. Eighty-three percent did not know of any past or present child labor violations. A majority of respondendents did not think that changes in labor laws would cause them to hire more youth, especially 14 and 15 year olds. High school diplomas were rather weak as employment qualifications - only 13 out of 78 frims required such a qualification. Experience and references were judged to be of high value for applicants but firms were also sensitive to external forces such as jobs programs, equal opportunity requirements, etc. Respondnets maintained that legal requirements were an important general reason for not hiring youth, yet a majority (64%) claimed that child labor laws were <u>not</u> the impediment to hiring in their own firms. This seeming contradiction warrants further exploration.

The study recommends more attention to be paid at the community level to barriers affecting youth employment. A number of

actions will facilitate dealing with unnecessary restraints created by the laws, and their history. The laws need to be much more clearly understood and there is a recommendation for a readable compendium of laws for each state. Such a compendium ought to be part of an active information system aimed at youth, educators, employment counselors and employers. The study also recommends further relaxation, under supervised conditions, of laws affecting 14 and 15 year olds so that they can work during the school day in approved work experience programs. Elimination of state and Federal overlap in legal coverage is suggested and the relationship of child labor laws to the Occupation Health and Safety Act of 1970 will need to be explored, along with several other matters which need attention.

This report concentrates exclusively on non-agricultural employment. Child labor laws, either federal or state, do not regulate the vast majority of farms, especially those which are family-owned. Historically, government has tread lightly in the agricultural sector mainly in the belief that agricultural production is dependent on low-wage labor. In recent years some agriculture has been organized into modern industrial forms. Unionism and labor standards have followed to some degree but as long as the family farm exists it will seek exclusion from protective labor legislation. Only about one out of three farm workers is not a proprietor or a family worker. Because of these economics the dangers of farm work are not well treated by official regulation. The single consolation is the long term decline in agricultural employment.

II. Introduction - "The Evil of Child Labor"

Few observers of American life and history need a wave of nostalgia to invoke interest in the 1930's. The social and economic history of the United States was abruptly and profoundly changed by governmental interventions unmatched in any other era since the Civil War. The dynamics of the New Deal must, however, be approached with care. Historians and biographers of the Roosevelt presidency often present an indeterminate picture of spontaneity, improvisation, political opportunism and ineptness as a result of brilliant but intuitive leadership. Much of this folklore has arisen from attempts to master the business cycle and many of these controversies, antagonisms and uncertainties continue to this day. The issues of labor conditions and standards and the means to improve them, however, were always implicit in the Roosevelt candidacy. These issues were rooted in a half century of social activism and trade union ascendancy. In retrospect we can see that such reforms were inevitable -- only the timing and the constitutionality were issues.[1/]

[1/] The U. S. Congress had twice attempted to limit child labor and the Supreme Court rejected both attempts. In Hammer vs. Dagenhart 247 U. S. 251 (1918) the Court said that the power to regulate interstate commerce did not allow the Federal government to take the police power from the states. Federal interest in the transportation of goods did not extend to the manufacture of such goods. In Bailey vs. Drexel Furniture 259 U. S. 20 (1922) an attempt to tax establishments using child labor was turned away with a similar argument that the power to tax could not be used to regulate employment. Both cases, explicitly or implicitly, were overruled by the decision upholding FLSA in United States vs. Darby 312 U. S. 100 (1941).

In official Washington, throughout the administration and among much of the Congress, the prevailing view on the employment of children was negative and indignant. Child labor was seen as a repellent institution and opposition to it took a highly moral turn. It is still recalled in the photographs of Jacob Riis, in Disraeli's Sybil, Dicken's David Copperfield, and with less art but no less feeling in Sarah Norcliffe Cleghorn's quatrain -

"The golf links lie so near the mill
That almost every day
The laboring children can look out
And watch the men at play."

In 1937, Mr. Roosevelt, in a message to Congress urging the passage of the Fair Labor Standards Act, said that, "A self-supporting and self-respecting democracy can plead no justification for the existence of child labor ..." and he urged the extension of government control over "the evil of child labor." These were words heavy with approbation. Presidents, even the kind given to hyperbole, do not often use "evil" in state messages.

The timing was right in 1937-38. The nation had begun to slip back into depression and there were fears for the preservation of the labor standards in the defunct NRA codes. At the same time the administration had sensed a change in the judiciary. Chances for sustaining a Federal code of labor standards were judged to be good even despite the failure of the President to expand the membership of the court. Roosevelt moved, the Congress acted favorably and the Supreme Court acceded in turn.

The language of the Fair Labor Standards Act of 1938 is cool, belying the feelings of its sponsors and its opponents. The stage was being set for its

ultimate test in the courts and there was no doubt how the Act would be justified.

> Sec. 2 (a) The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.
>
> (b) It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

On February 3, 1941, in United States vs. Darby, the Supreme Court upheld the constitutionality of FLSA by agreeing that Congress was free to exclude from interstate commerce articles whose use or origin may be "injurious to the public health, morals or welfare." The court in 1950 would be more direct, noting that FLSA sought "to raise living standards without substantially curtailing employment or earning power." [Justice Burton, Powell vs. United States Cartridge Company (1950)].

The Fair Labor Standards Act was the Magna Carta of protective labor legislation. Like the Magna Carta it shifted power by redefining roles and relationships, in this case the employment contract. Gone forever were free market vagaries and the common law relationship of master and servant. But like the Magna Carta it would be overstated in what it accomplished. It did not and could not cover all workers, including the very worst off, and it guaranteed not a good life for those it covered but only a minimal income for those who worked.

However, the Act, the last great domestic accomplishment of the New Deal, is ranked with Social Security as being the most important legislation affecting the working lives of the citizenry. As far as child labor was concerned, it was a conspicuous success in drastically altering the economic role of young people.

Consider its impact today. It is unusual in the United States to find young people who are working at a paid job which pushes them to exhaustion or which subjects them to serious danger beyond their normal perception of danger. Youth under 16 are kept apart from most labor force activities including whole sectors like mining, manufacturing, construction and transportation. Youth under 14 can legally do very little organized work, except in such traditional occupations as newsboy or bootblack. Work, and by this we mean legal work, has become far safer for young people than inter-scholastic athletics, or the family car.

FLSA and the other child labor laws have invited a high degree of popular acceptance and compliance. There are violations to be sure. The Department of Labor estimates that there may be as many as 20,000 per year. Nevertheless, the degree of voluntary compliance surely exceeds the capacity of all governments to invoke compliance.[2/] This widespread acceptance of child labor laws, through its vast network of Federal and State statutes, is also the root of the largest problem posed by the laws themselves, their potential or alleged limitation on desirable work experience.

2/ Violations of the child labor provisions are subject to a civil penalty of up to $1,000 for each violation. Persons familiar with enforcement say that most violations are "technical" i.e. that violators are not consciously breaking the law. The exception to this pattern is agriculture which though only partially covered by child labor laws still maintains a certain notoriety for exploitation of children and for hazardous conditions.

The Fair Labor Standards Act was not supposed to limit employment entirely but to allow for the gradual integration of teenagers into the labor market. As law it had to be precise but at the cost of being arbitrary. Teenagers vary as to their physical and mental capabilities and jobs vary in their demands. Nevertheless norms had to be developed that could be applied, administered and understood by ordinary people. Actually, FLSA went very far in trying to accommodate work situations deemed to be of value to young workers. The concept of work experience, although in and out of fashion over the years, was not and is not resisted by FLSA or any State law.

This study is an attempt to measure the influence of child labor statutes on the employment of youth. Previous studies have attempted to determine the importance of laws and legal restrictions in youth employment but with differing, sometimes contradictory, findings. In 1965, a Stanford Research Institute finding on youth employment and child labor laws was stated as follows:

> On the basis of the field work findings, it is concluded that these many variations and intricacies of child labor laws probably have little effect on the work opportunities of youth except insofar as they serve to confuse labor and school officials and employers. 3/

In commenting on an establishment survey on youth-hiring, the Bureau of Labor Statistics noted:

> Where employers did indicate that these factors were influential (employers were asked to rank 9 specific factors on decision to hire, ed.) the most important factor in all cities

---

3/ Stanford Research Institute, The Effects of Laws Governing Youth Employment and School Attendance on Youth Offenses and Delinquency. Menlo Park, December 1965.

affecting employers' decisions to hire teenagers under 18 years old was legal restrictions on hiring youth for hazardous jobs. 4/

Another BLS study, a survey of Employment Service placement personnel, indicated that such personnel considered "legal restrictions" to be the most serious employer objection for hiring 16 and 17 year olds.5/

The U. S. Department of Labor and State governments have authorized a waiver of hourly and weekly restrictions for 14 and 15 year olds. In 1969, the Work Experience and Career Exploration Program (WECEP) was set up to encourage the mixing of formal education and employment experience. As a result 14 and 15 year olds are allowed to work as much as 4 hours per day on school days and 28 hours per week during the school year. Employer reaction in almost all respects has been favorable and the finding relative to the labor law problem has been that:

> 5) There is very strong evidence in the study (a WECEP evaluation) that injuries are not a problem with the program as WECEP is presently constituted. 6/

This modest language is an important result for it tends to discharge the Secretary of Labor's responsibility under FLSA. If work-study programs,

---

4/ Bureau of Labor Statistics, Youth Unemployment and Minimum Wages, Bulletin 1657, 1970, p. 72.

5/ Ibid., p. 93.

6/ Ernst W. Stromsdorfer, An Economic Analysis of the Work Experience and Career Exploration Program: 1971-1972 School Year, Final Report, p. 112.

operating under flexible rules, are not endangering the lives and limbs of young workers and are actually enhancing rather than reducing their education opportunities, then the child labor laws can be redirected from the regulatory role and into an expansion of youth employment opportunities.

Child labor laws are not the only factor at work. It is, as we suspected, not even the major factor, especially for youth in the mid-teens. But child labor law has a perceived value and though analysis brings out the dominant role of purely economic influences, it is the laws which sometimes form a cover for such influences and provide a respectable alibi as to why youth suffer employment difficulties.

Chapter III describes the links between the economy and the social goals of the society and how child labor laws reflect yet sometimes contradict economic realities. Chapter IV is a general treatment of the economics of the youth labor market. Chapter V is a specific recital of the range of Federal and State laws including some laws which tangentially affect youth employment. Chapter VI describes the issues and programs concerning the supplementation of education through work experience. Chapter VII is the results of the employer survey conducted for this study and Chapter VIII contains the summary and policy conclusions.

III. "The Politics of Adolescence"

When a nation, any nation, begins to develop an industrialized sector, it will acquire or invent some kind of labor code defining the nature of the work relationship. The code can be basically eclectic, encompassing common law, statutes, quasi-official regulations and practices, and contractual rules; or the code may be comprehensive and unitary with a detailed but wide-ranging law covering all kinds of work related situations. For various reasons the main one being our Federal system, American labor law is not centralized in scope or practice.

Protective labor legislation ensures that employers meet certain standards and respect certain rights. To the largest extent possible the standards and rights are uniform in scope and application so that there is reduced competition, or a floor, on wages and working conditions. The employment of children is a central and sensitive issue and many cultural values are brought into play. At the same time there are powerful economic forces at work affecting the decisions of whether or not to use young people as workers, especially in light labor-intensive industries.

Let it first be said that in the history of America and of its European ancestors, child labor of the most exploitative and miserable kind was considered to be socially acceptable well into the 20th century. To be sure, classical capitalism developed enemies from the start and such critics were especially offended by the callous employment of children. Eventually, these reformers prevailed to the extent of ending or curtailing the use of adolescents in the industrial sector, but it was not until 1941 that Federal child labor law was finally approved.

The opponents of child labor were not alone. Others shared the same goal but for different motives. Among these were educators who felt that the public school was more beneficial to youngsters than work. The school came to exercise a legal claim to the extent that the traditional work week was replaced by the school week for 9 or 10 months of the year, and until the mid-teens. It became commonplace to suggest that formal education would and ought to preempt the time of young people into and beyond the late teens. Implicit in this trend is the assumption that formal education is a substitute for work experience. This assumption has come into question in recent years, as will be shown later in Chapter VI.

Another ally of child labor restrictions has been organized labor. Unions have pressed for general improvements in wages and working conditions which were often at their worst in the low-wage industries that hired youngsters. Unions were also interested in drying up some of the unskilled labor pool in order to protect jobs. Their advocacy of a minimum wage and reduced imigration were part of the legislative efforts that also included child labor laws.

Looking back on the history of protective labor legislation, one is never sure of how the populace has felt about work itself. The famous Protestant work ethic was and is a powerful force. Americans, more than anyone perhaps, see themselves as right-thinking Stoics who reject indolence and drift. At the same time (and perhaps in the same people) there lives a lively hedonism and a taste for leisure. There is also a widespread skepticism about the value of unskilled or monotonous employment. Whatever they believe in, Americans of the 1970's tend to encourage their offspring to stay in school. They view

the diploma as an exit visa from manual labor. There are some exceptions to this point of view. A few people see formal education as an irrelevant waste of time, in more or less avant garde terms, while another, and more traditional, group wants their sons and daughters to earn their way as soon as possible. Both seem to be small minorities and we do not know what their views are on child labor laws.

How can one characterize the present? Begin by not underestimating the way legislation can change hearts and minds. The passage of the Fair Labor Standards Act in 1938 apparently reversed the common perception of child labor. Up until 1938 there had not been a vast outcry for outlawing child labor except to "spread the work," i.e. to transfer work to unemployed adult males. Children were still seen as capital, which is a common value in societies with rural origins. But child labor restrictions (and most of the other New Deal measures) were perceived as necessary elements of economic recovery. Child labor restrictions were absorbed into the rights of workmen along with the minimum wage, the 40 hour week, Social Security and the freedom to organize and to bargain collectively. These other social rights still tend to arouse more controversy than child labor but there is little doubt that all enjoy wide popular support. The concept of child labor laws was not truly controversial after the Supreme Court sustained them in 1941. Most of the states developed legislation stricter than or comparable to FLSA in coverage. In recent years the Federal law has been amended to cover more and more jobs including some in the once sacrosanct agricultural sector. One concludes that child labor laws have become, in a generation, one of the basic and to some

extent one of the stabilizing principles of labor market operation.

The fact that school attendance of lengthening duration was becoming a basic American belief and a potent indicator of class differences and the resultant mythology that formal education was a way to leapfrog jobs of modest pay and skill took a beating in the 1960's and 70's when the bidding for jobs seemed to negate the value of the high school diploma and even the bachelor's degree. Finally, the trade-off between work and school, which for a while had been a mutually exclusive proposition, was to be fundamentally reconsidered. Formal education came under fire (fairly and unfairly) because it did not cure certain social disorders, including unemployment.

Child labor laws were subjected to scrutiny when work was resurrected as the "answer" to the youth problem. It was reasoned that if youth could not find work they were either ill-prepared or they were barred at the door by some artificial restraint. Few doubted that they were not prepared but what were the other things that kept them out? Some said unions were responsible. But unions in fact organized only 1 out of 4 jobs, the closed shop had long been illegal and where entry into an occupation is controlled by unions, such as the building trades, there is not enough demand for unskilled labor to make a difference in youth hiring. Besides, these unions had a recruitment and apprenticeship system that many considered to be relatively efficient. Could unions help it if their wage rates excluded the hiring of inexperienced workers?

If it was not the unions it must have been the labor laws themselves. "Not so," said the government. "The labor law standards are consistent with community beliefs and based on actual experiences. The person who looks

closely at the law can see that law permits more work than it forbids. In the case of 14 and 15 year olds no one really wants to expose them to the workplace to any larger degree than they are now. And there are legitimate and beneficial ways to expose them if it comes down to that. As for 16 and 17 year olds, these are, in fact, lightly restricted, as hazardous orders have only a minor effect. Examine these orders one by one. Are they not reasonable? What one could be rescinded? Isn't it more likely that the philosophy of the hazardous orders is in effect being extended to <u>all</u> workers through safety and environmental laws?"

The present policy equation then is for governments to find the balance between <u>control</u> and <u>participation</u>. The Fair Labor Standards Act was drafted to limit only the most onerous and unhealthy practices. It was not a ban on child labor but only a partial ban against the exploitation of the youngest workers. FLSA was supposed to accommodate work experience which was always viewed positively and which has recently re-emerged as a vital component of secondary and postsecondary education. At the same time there has been an evolution in labor relations which has seen a reduction in industrial danger as a goal which can benefit not only the entire society but individual employers. In crass terms this has meant that one cannot make a buck on someone else's misery. It is now worth money to run a safe shop -- which was surely not the case in the heydays of child labor. Safety pays.

The criticism of child labor laws seems to come from unlikely places -- from educators, from social workers and from the government agencies entrusted with a mandate to help young Americans enter productive employment, in short

those who a generation ago were pressing for work restrictions. No one denies that well-intentioned law can have some bad side-effects. It is the purpose of this study to determine which side-effects are operating, if any. The world that teenagers live in is vastly different from that of their parents and grandparents and the supply and demand situation has altered employment expectations. Work, once an obligation, has now become, if not a privilege, then at least an experience with future value for the young. Child labor laws are still relevant, however. For one thing, industrial technology is still essentially what it was in 1938. There is a mass of industries which could again choose to open competition on low labor rates, a condition specifically attacked by the New Deal. What is needed is to shift the legal emphasis away from prohibition and toward hiring of youth. This emphasis cannot be achieved through mechanical means but through changes in perception of work and its value for young citizens.

IV. The Youth Labor Market and the Role of Law

As with most complex labor market problems there are aspects of the child labor problem which can be described only with non-economic analysis. There is, perhaps, enough 'rational behavior' to make economic generalizations but these can be deceptive and even dead wrong. Adequate data exist but the problems are in concepts and subjectivity. In discussing youth, analysts tend to reveal strong personal values.

Here are some points of view on the subject of youth employment. All have a certain insight but their logical extension into a youth employment policy would be unreal.

> Ignorance is Bliss - Youth as workers are not to be taken seriously. They are "marginal" or "secondary;" their participation and unemployment rates are so variable that no analysis is possible. Their wage rates and short hours are such that their productivity is insignificant. If they have problems they are social in nature. Any attempt to influence their employment would be expensive and/or futile.
>
> Wild Oats - The tenuousness of youth employment is not a problem but a virtue. Young people ought to be casting about, 'finding themselves.' Entry into the labor market should be delayed as long as possible. Variations on this theme include a bias for extended formal education, especially in the liberal arts and a belief in the low level of qualification for the vast majority of jobs.
>
> The Standard Man - Youth are the same as the rest only younger and a little less skilled. Youth are rarely or never discussed as a complex of unique problems. At best they are subject to analysis by isolating the age variable as a partial measure of education and experience.

There is considerable insight in all of the above characterizations and we need to use some of each in making a general approach to youth employment. There is yet another approach and one which is directly related to youth labor

laws. It holds that government bodies ought to confine themselves to enforcement and should refrain from involvement in marginal cases and in work-study arrangements. This mission is justifiable insofar as the isolation of youth from work serves to ensure their safety and health. An exotic variation of this is the relating of late labor force entry to high lifetime earnings. The State discourages work so the young person is diverted into education which is supposed to be in his or her long term interest. This is a surprisingly prevalent view and is supported by an enforcement system which is kept apart from the educational authority. Although in theory youth labor laws provide for linkages between regulatory agencies and school systems, to ensure that the best interests of youth are served, the maintenance of a separate regulatory enforcement system tends to emphasize the negative aspects of the child labor laws.

The Fair Labor Standards Act is said to be rooted in a market theory. Such a theory, which is essentially correct, holds that there is a competition for jobs and workers. Wages and other emoluments can move up or down. FLSA seeks to put a floor on such competition by setting forth a minimum wage and provisions for overtime premiums and for maximum hours. If no buyer of labor can go below the minimum, there is a point where a firm cannot gain a market advantage by further reducing wages. Labor costs may still be a factor in market position but labor rates are not. FLSA also justified itself on the grounds that it supported purchasing power, emphasized efficiency and promoted industrial peace.

There is a darker view of the role of labor standards and especially child labor laws and the minimum wage. This view of the market is of savage economic determinism; law is seen as conspiratorial. Presumably the world is an arena, especially for capital and labor. Employers want access to child labor in order to weaken trade unionism and to drive down wages. Unions want prohibitions on child labor to reduce labor supply in order to maintain or drive up wages. "Fair is foul and foul is fair," said John Maynard Keynes. Insofar as those who believe in conspiracy are often vindicated by events, one cannot be a Dr. Pangloss and see only the best of all possible worlds. Yet power and self-interest do not explain all. In the present world of the teenage labor market there does not seem to be an active deployment of powerful special interests. In fact there is a disturbing lack of interest.

Action and Order

At base there are two sets of forces which are brought to bear on the child labor issue. The purely economic force we shall call action. It is the kind of behavior which is reasonable in a market situation. It may be the kind of behavior which is naturalistic and mechanistic. Each person has an individual supply and demand schedule. Each will act in a predictable way under similar circumstances. Labor is a commodity, pure and simple. Here Smith and Marx would agree.

But there is more. There is something we can call order. It is the process and procedures through which social and cultural values are acted out. Order is not irrational behavior but carries its own logic. Its results are often not measurable in conventional ways though it sometimes operates in the

marketplace. Order in the economy might be the law of contracts, the ages of consent and majority, compulsory schooling, employer liability, taxation and so on. But order also describes the rituals and protocols of the parent-child relationship and parens patriae, the legal doctrine of the State assuming the role as father. Order includes the conventions by which the child passes from puberty to adulthood. It is confirmation, Bar Mitzvah, the lion kill, the foodless week in the jungle -- the rites of passage that celebrate the socialization of youth. To this extent, child labor laws are taboos and rather complex taboos. Just as the child learning to walk is permitted to lengthen the radius of his travel, so the 14 year old is allowed gradual and controlled access to employment. Because our culture is Newtonian and legalistic,the laws we have look "scientific" since they are empirical, are essentially uniform in application and are stated in specific written form. They are taboos nonetheless. The child labor laws may even have a psycho-social aspect. They may be a form of group guilt-sharing as parents transfer control and responsibility to the group as a whole. If a teenager loses a limb in a machine all of us accept some blame even if specific liability can be placed against individuals.

The point of this conceptual proposition is that strict economic criteria alone cannot be used to evaluate the need for child labor legislation. The requirements for order are not so much based on some universal cost-benefit analysis as they are grounded in very sensitive social beliefs including parental love and concern.

Order is not necessarily efficient or inefficient. Order may make a market possible but its arbitrariness may clog up the machinery. Examine, for

example, the rule that a 16 year old may legally be employed in a factory. This includes the moronic, the psychotic, the brilliant, the beautiful, and a few 15 year old liars. Age may not even be effective at all as a labor force characteristic. And the law does not preclude danger in work situations. There are virtually no laws forbidding access to a factory or a mine by anyone of any age so long as they are not there for the money. It is acceptable to break limbs in a high school football game but not in the pay of General Motors. It is something of a game and a little unreal. Still the laws are based on genuine experience. Many living Americans have suffered or have seen suffering in the absence of such laws.

Economics of Child Labor

Given an awareness of these limiting factors, let us examine the prevailing economics of child labor. First of all, does legal intervention affect youth employment? In the broadest but absolute sense, the answer is an emphatic no. There are more teenagers working now than ever. But if one asks if laws impede teenagers from having the same kinds of job experiences as older workers the answer might still be no, though with much qualification. And this is the crucial question at present. There is practically no interest in enacting tough new laws or in stiffening old ones. Neither are there cries to strengthen enforcement. But there has been and is a movement to remove those features of the laws which exclude teenagers from desirable work experiences.

This economic section cannot and does not describe all the dynamics of the transition from puberty to adulthood. The major economic characteristics analyzed throughout this report

are those of age distribution, labor force status and distribution, school attendance and the nature of unskilled labor demand. What is omitted is the need for income, sex and racial differences, most of the issues dealing with the economic value of education except for work experience programs and some of the issues in unemployment analysis such as the length and frequency of unemployment.

The norms used are those of conventional labor force analysis (unemployment rates, participation rates, industry and occupational distribution, weekly hours worked, and so on). It is a regrettable but necessary tactic to overlay analysis with ancillary and corollary definitions and qualifications. Only when discussing youth could one make such a strange remark as "it is a labor supply characterized by instability and immobility."

Age and the Labor Force

What are the important variables in the youth market? Demography furnishes one important kind of analysis. The growth of the teenage group in the population was disproportionately large in the 1960's because of the baby boom of the post-war era. During the 1960's the teenage population increased by 50 percent as compared to 15 percent for the previous decade. Consequently, it was easy to say -- and some still do -- that youth unemployment is a logical outcome of a rapid growth in supply unmatched by growth in demand. Actually the demand seems to have grown at a rapid and respectable rate, as the employment of youth grew at nearly the same rate as the supply. Nevertheless the unemployment rate for teenage workers was about 20 percent in May, 1975 (and over 40 percent for non-white youth). Herein lies a caution --

the long-term rise in teenage unemployment rates does not mean that there has been a decline in employment. What has happened is that teenage employment or demand has not grown as fast as supply. Supply was overly-influenced by the rapid absolute and relative growth of the teenage population plus a concurrent rise in the participation rates of teenagers. This is particularly true of in-school teenagers who constituted only a third of the employed workers aged 16-19 in 1953 and who by 1973, formed a majority of such workers. Thus the proportion of in-school teenagers who are working or seeking work is rising, irrespective of the size of their age group. 1/

Mobile or Immobile?

The critically important participation rate should be seen from another perspective. Young people and others, but especially married women, are often not forced to work if they are attached to a household with a full-time wage earner. One has to be careful here not to paint a picture of any worker so as to minimize their need for income. Teenage workers often need work in a most desperate way, and some are sole support of themselves and a family. But these are a minority. The point is that the decision to join the labor force by a large number of teenagers is often situational and passive. Some lack the

---

1/ It should be noted that there are research findings which hold that participation rates for youth are understated by official data because of a survey idiosyncracy. Household surveys on employment are heavily influenced by information given by housewives who tend to skip over the economic activities and aspirations of teenage family members.

time, motivation and skill to make a serious job search. A teenager not looking for work may accept a job if one is offered, but will not look for another if the job is terminated.

This special characteristic causes the participation rate to vary widely among teenagers. What is even worse is that the statistical participation rate, which is static in time, masks the real flux in this particular labor market. Let's say that at any one point in time 8 million of 10 million persons are looking for work or are working. The participation rate is thus 80 percent. But in the course of several months 9 million of the 10 million persons are working, looking for work, or are available for work. In such a case the participation rate understates the size of the potential working population over any extended period. Yet labor force observers can convince themselves that employment rates are significantly overstated in importance when one can argue the exact opposite. In any case these statistical twists present a particular problem in measuring the magnitude of the youth labor supply. It is reasonable to venture that teenagers change employment status (in and out of the labor force) as fast as they change jobs. They thus earn a reputation for unreliability and mobility. Individually, they may or may not be reliable but this bias is helped along by the fact that they may take jobs which have a high turnover irrespective of age.

It is not correct to view teenagers as a mobile population because of turnover alone. The majority of teenagers live in a small world of limited job opportunities. Their dependence on their family's resources plus their school status limits their mobility as to where they can work or the flexibility

of the hours they can work. Labor economists argue over this because youth has long been identified as being more mobile than others in the labor force.[2/] Mobile in what way? Lacking skills and experience, they cannot move geographically and, of course, many do not possess adequate transportation. Perhaps only one group, 18 and 19 year olds out of school, fit the stereotype of "footloose youth."

Age and School Enrollment

Age and school enrollment are extremely important variables. Out-of-school youth, aged 16 to 19, comprised 48 percent of the teenage labor force in 1973 but accounted for 65 percent of the manhours worked. Eighteen and 19 year olds, not enrolled in school, accounted for 42 percent of the teenage labor force but 57 percent of the total manhours. In-school teenagers work many fewer hours than those not in school, even in the 16 and 17 year old group. In-school 16 and 17 year olds averaged 17 hours per week in 1973, while out-of-school 16 and 17 year olds averaged 34.4 hours per week in the same period.

[2/] They are looked upon as members of a labor reserve and are characterized as secondary wage earners. The labor reserve concept carries an implication of labor available only for contingency or emergency use. Labor reserve looked at as lost value is less common. Unemployment itself is still not viewed as an evil by classical-oriented economists who see it as a kind of purge of inefficient and inflationary tendencies. A similar illusion has developed that because their labor force attachment is variable young workers are not serious workers or that their problems aren't to be taken seriously. Actually there are over 10 million teenagers who work, a population as large as the combined labor forces of the industrial nations of Canada, East Germany and Denmark. Their contribution to the total manhours worked (and therein to gross national product) is more than 6 percent which is about the size of the annual total increase in a very good growth year. By global standards they are a healthy, well-educated work force with a large productivity potential.

Here is a clue to the incompatibility of school enrollment and full-time employment. In other words, a youth who has dropped out or graduated has vastly improved access to full-time jobs. By terminating the school connection, the teenager joins the labor force by being eligible for what is called the "standard job," presumably a 40 hour week plus the option of overtime.

Some youth thus shift from a secondary role to a primary role and acquire an identity with the full-time adult labor force. This is often overlooked. (Some statistical data on this are discussed in Chapter VII.) It appears then that age restrictions do not inhibit the employment of out-of-school 16 and 17 year olds even though some important labor laws apply to them. This tentative but highly important hypothesis also finds limited support in the employer survey. In any case, if the laws do form an impediment, it is not apparent in highly aggregated national data. However, by way of qualification, 16 and 17 year old penetration of certain industry groups (such as manufacturing) can be misread because young workers, irrespective of their availability, do not easily find employment in important subsectors such as durable-goods manufacturing.[3/] The data gathered for this report acknowledge that labor law is a potential restraint mainly because some respondents said that such restraint was operative and because the firms surveyed hired so few persons under 18. In the

---

[3/] Some would even say that youth are not welcome in sectors characterized by high capital investment where their supposed lack of judgment might damage themselves or the equipment.

end, the researcher and reader must act like jurors who weigh both circumstantial and eye witness evidence. Unlike the juror, however, no one has to vote for or against child labor laws as a bar to employment but only to array the law's effect against other factors.

Employment Impact of Legal Restrictions

How would this ranking translate into policy formulation? The policy-maker might ask the following question, "Would repeal or substantial revision of child labor laws have the effect of lowering youth unemployment rates?" One rather slick (and wrong) answer is a flat 'no' because the expansion of youth opportunities is questionable and may only serve to raise participation rates which are responsive to changes in labor demand. Actually rates of unemployment could go in any direction depending on the participation rates and even the month of the year. The rates are not really the issue.

The question supposes that there is a latent demand for teenage workers which will emerge if there were such a repeal. Obviously some employers feel restrained by labor laws because they said so. However, the latent demand is something of a Trojan Horse. For one thing, an employer freed of hazardous orders may feel equally restrained by the liability risk of hazardous conditions. Latent demand would also be a function of the prevailing wage which might determine the degree of substitution of young workers for those not-so-young. Thus the demand for youth would ultimately depend on its price. Substitution possibilities are less likely as base rates rise in relation to the minimum wage. A high base rate buys more experience and teenagers, in the best of

circumstances, are limited by their age in acquiring such experience. At or around a low base wage or at the statutory minimum wage there may be an age substitution but only in a tight labor market where teenagers compete only against other marginal workers. In slack labor markets, teenagers are up against the increased availability of qualified workers who voluntarily reduce their wage expectations. Such substitution is identifiable in the form of normal competition.

National data underline the poor bargaining position of in-school teenagers. The proportionate sectoral distribution of out-of-school 16 and 17 year olds is the same as for out-of-school 18 and 19 year olds except there are many more employed out-of-school 18 and 19 year olds. One also notes that unemployment rates among teenagers remain high, well beyond the age of 18 when almost all labor laws cease to apply. In fact the unemployment rate for white males, the most favored of young workers, falls to "normal" levels only at age 21 or 22. In weighing the employment impact of legal restrictions one must also point out that from age 16 to 18 most individuals are not excluded from the vast majority of jobs. The Labor Department has maintained that only 5 percent of non-agricultural jobs are subject to hazardous orders.

Can the legal age be separated from the "effective labor force accession age," a hypothetical age associated with school leaving and the acquisition of or search for the full-time job? One way of looking at this is to re-examine the nature of the employment distribution of in-school 16 and 17 year olds which, as we saw, is similar to the adult labor force. A second perspective is to follow the growth of <u>full-time</u> jobs held by young people. It is at 18

that the alleged legal impediment is removed, but school-leaving and the 18 year old limit on child labor laws are inter-mingled and inseparable possibilities. Obviously something has happened in a year, but to see the law as a controlling variable is to take a too-narrow view. The numbers of full-time employed workers continue to grow at high annual growth rates long after the 18 year old watershed. Large numbers of workers thus continue to assume full labor force status and to work more weekly hours long after the law has ceased to control their activities. The work attachment begins to change but not instantaneously as it does at age 16. At some point in the early 20's age alone ceases to predict the degree of employment attachment, as measured by hours worked or by rate of unemployment. School enrollment continues to control well into the mid-20's. There does not appear to be a reservoir of "legal" jobs available as soon as one passes into majority at age 18 but there is a demand for unskilled workers available for full-time employment. The flow of "maturing" workers is gradual and there is probably an average age of majority for full-time labor force participation. A guess would have it around age 21. The hypothesis then for further research would hold that school attendance and experience control labor force participation beyond the age of 16. The inference that labor laws are of minor or residual importance is not truly demonstrable with these data but that the laws are of crucial importance is even less evident. In the section on the employer survey an effort will be made to show that the legal restraint itself is only partly genuine and that the quality of the labor supply is even more critical than the respondents claimed. In order to reach such a conclusion, it is necessary first to examine the child labor laws and determine exactly what are the legal constraints.

V. The Legal Framework

Background

The purpose of this section is to describe the tangle of legal restrictions affecting employment of youth. At the outset a general matrix of the laws affecting youth employment is provided so that individual combinations of laws may be understood. Legal coverages overlap as well as supplement each other, especially in age and occupational standards. In cases of overlap, the more stringent law prevails.

The primary legal restrictions on the employment of minors are the child labor provisions and regulations of the Federal Fair Labor Standards Act and the child labor provisions of the laws, administrative orders, rules, and regulations of the various States. An important provision of the Federal law is that where the coverage of Federal and State child labor provisions overlaps, the more restrictive provision applies.

Federal and State child labor provisions cover:

1. Minimum ages for general and specific types of employment.
2. Prohibition of work during night hours (Nightwork Restrictions).
3. Prohibition of certain kinds of employment (Hazardous Orders).
4. Registration of minors in employment (Employment or Work Certificates).
5. Maximum daily and weekly hours of work permitted.

Another source of youth employment restrictions is the minimum age requirements in a host of Federal and State laws and regulations that primarily exist to regulate fields other than child labor. These may have major impact on youth employment and are explored in greater detail below.

The laws and regulations restricting youth employment contain various exceptions and special conditions which are not without importance. The most common exceptions are for youth in a learning situation (student learners, apprentices, work experience students, etc.), family members working in a family-operated establishment, and youth certified as not benefitting from further schooling. These features are not adequately dealt with here because they are too numerous and variable, particularly in State law, to permit generalized treatment.

The overlapping coverage of Federal and State laws and regulations, the multiplicity of Federal and State laws and regulations with minimum age provisions, and the multitude of special exceptions and conditions, in both primary and secondary sources of youth employment regulation, have combined into a single problem -- that of confusion as to what a particular youth can and cannot do. Employers, youth, parents, and even youth employment counselors share this confusion.

This problem is resolved, not wholly adequately, by drawing the broadest generalizations possible about the scope of law and regulation.

Workers 18 and Over

Generally speaking, a youth over 18 years of age enters the labor market free of legal restrictions. There are exceptions, of course, such as 21 years of age requirements for some occupational licenses, and restrictions on the serving or dispensing of alcoholic beverages, but, in the main, the employment difficulties of someone over age 17 are not the result of legal barriers.

16 and 17 Year Old Workers

Sixteen and 17 year old workers bear the brunt of the restrictive aspects of child labor laws in the sense that a significant percentage of them are otherwise physically, emotionally, and educationally qualified for employment. Forty-one percent of the employers interviewed in our survey replied that they might hire some or more 16 and 17 year olds if the laws restricting their employment were relaxed.

In these States youth 16 and 17 years old are required to attend school full time. About half the States demand compliance with the State's employment certificate requirements. Also, in approximately half of the States, the number of hours that these youth may work is regulated, and they may not work at night, although the number of hours and the evening hour after which work is prohibited may be more lenient than for youth under 16 years of age.

Further, a significant number of industrial occupations are closed to 16 and 17 year old youth, either because the machinery has been determined to be "hazardous" or the particular trade or craft has an age-based entry for apprenticeship or licensing. The Federal law and the laws of about half the States regulate "hazardous" occupations for youth under 18.

Workers Under 16

Youth 14 and 15 years of age are quite significantly regulated in employment by laws and regulations. Many of these youth wish to work but find most employment doors closed to them, primarily because of legal restrictions. Whether employers would hire significantly more if the laws were relaxed, is, of course, another question.

In most jurisdictions, 14 and 15 year old youth are required to attend school full time and are restricted to 18-23 hours of employment during a school week. As a general rule, they are not permitted to work more than 40 hours per week, or at night, during school vacations. Manufacturing employment or the operation of power-driven machinery is often prohibited. What this all amounts to is that they are restricted to relatively casual, daytime employment.

Youth under 14 are usually prohibited by State law from employment in all but a few traditionally youth reserved jobs such as newspaper delivery, caddying, and gardening. They may not work for any establishment covered by the Federal Fair Labor Standards Act nor in retail employment under many State laws.

Enforcement of Child Labor Laws and Regulations

An interesting aspect of the impact of the laws and regulations affecting youth employment is enforcement of these laws and regulations. Both Federal and State child labor laws contain penalties for violation and have personnel to investigate possible violations. Enforcement of the minimum age provisions of "secondary" sources of laws affecting child labor is usually left to the agency administering the particular law. In most States, the work permit system requires the employer to describe the type of employment for which he is hiring a youth, and work permits are not issued for "illegal" employment.

But, and this is an important "but," employers are not required to establish conclusively the age of each potential employee under the work permit system. If an underage youth says he is 18 and the employer accepts it, the matter will usually end there.

The enforcement agencies of both Federal and State child labor laws are notoriously understaffed. The Wage and Hour Division, Employment Standards Administration, U. S. Department of Labor, has 800 investigators nationwide to administer the entire Fair Labor Standards Act (child labor, minimum wage, and overtime provisions) and several other laws. Typically, administration of State child labor laws is up to the agency that also has adult labor law enforcement responsibility and staffing for enforcement is modest at the State level. Child labor law violations are usually discovered upon specific complaint, during an infrequent complete audit of a firm's employment practices, or in situations where a youth is injured. Very little time is spent in investigation specifically looking for child labor law abuses.

Whatever the facts of the matter, child labor law abuse does not appear to be a well-known white collar crime. Only 17 percent of employers in the NMI survey knew of any violation of child labor laws, either through public accounts or friends and associates. Most of those who knew of violations mentioned that an underage youth drove a vehicle in employment or that a youth falsely stated his age. No knowledge of abuse, in the sweatshop sense, was reported. It is estimated by the Department of Labor that there are some 15-20,000 child labor violations per year. This can be seen as a lot of law-breaking in absolute numbers or as little in comparison to the size of the youth population.

THE FAIR LABOR STANDARDS ACT OF 1938

Since the Supreme Court upheld the FLSA's constitutionality in United States vs. Darby, 312 U. S. 100 (1941), it became the watershed of protective labor

legislation in general, and of child labor specifically.

The FLSA fixes 16 as the basic minimum age for employment. The Secretary of Labor is, however, empowered by order or regulation to allow the employment of 14 and 15 year olds in occupations other than manufacturing and mining that are not oppressive, will not interfere with their schooling, and will not interfere with their health or well-being. The Secretary of Labor is also empowered to prohibit to persons 16 to 18 years of age those occupations that are found to be especially hazardous or detrimental to their health or well-being, but these prohibitions are less extensive than for 14 and 15 year olds.

The coverage of the FLSA has been expanded by various amendments since 1938 and presently extends to:

a. Enterprises engaged in commerce;

b. Enterprises engaged in the production of goods for commerce;

c. Enterprises in which employees handle, sell, or produce for commerce, and which meet one or more of the following criteria:

   1. have annual sales volumes of at least $250,000;

   2. are engaged in laundering, cleaning, or clothing repair;

   3. are engaged in construction or reconstruction;

   4. are hospitals, nursing homes, schools, or institutions of higher learning; or

   5. are activities of a public agency.

"Commerce" is defined by the act to mean "trade, commerce, transportation, transmission, or communications among the several States or between any State and any place outside thereof."

This broad coverage of the Fair Labor Standards Act means that almost all establishments of any size are covered by the "oppressive child labor" provisions of the act. The coverage exceptions provided for the minimum wage and overtime provisions of the act do not apply to child labor.

FLSA Regulations: 14 and 15 Year Olds

Employment of 14 and 15 year olds is governed by Child Labor Regulation No. 3, originally issued by the Department of Labor soon after the enactment of the FLSA. These youth may not be employed:

-- During school hours.

-- Before 7 a.m. or after 7 p.m. (not after 9 p.m. between June 1 and Labor Day).

-- More than 3 hours a day, 18 hours per week in school weeks.

-- More than 8 hours per day, 40 hours per week in non-school weeks.

The occupations permitted and excluded by Child Labor Regulation No. 3 are a considerable array. Precise understanding can be gained only by direct reference to the regulation, available from the Wage and Hour Division, Employment Standards Administration, U. S. Department of Labor (USDOL). In retail, food service, and gasoline service establishments, a number of simple occupations are specifically permitted, and other occupations within these establishments are specifically prohibited. The across-the-board exclusions are:

-- Any manufacturing occupation.

-- Any mining occupation.

-- Processing occupations.

-- Occupations requiring the performance of any duties in workrooms or workplaces where goods are manufactured, mined, or otherwise processed.

-- Public messenger services.

-- Operation of hoisting apparatus or power-driven machinery.

-- Occupations in connection with transportation, warehousing, communications and public utilities, and construction, except for office and sales work.

-- Any other occupations found to be hazardous.

There is some confusion regarding the legality of employment of youth in gasoline service stations. Child Labor Regulation No. 3 provides that 14 and 15 year old minors may be employed in ... work in connection with cars and trucks if confined to the following:

"Dispensing gasoline and oil.

"Courtesy service.

"Car cleaning, washing, and polishing.

"Other occupations permitted by this section.

"But not including work:

"Involving the use of pits, racks, or lifting apparatus or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring."

Some of these distinctions are probably hard to make (or adhere to) at the local garage. Within the regulation, separate provision has been made for work experience programs. Application for approval of a particular program must be made by the State Education Agency to the Administrator, Wage and Hour Division. Certain employment remains prohibited to enrollees of these programs, and employment is limited to 4 hours per day, 28 hours per school week.

FLSA Restrictions on the Employment of 16 and 17 Year Olds

Restrictions on the employment of 16 and 17 year olds are based on Hazardous Orders, issued by the Employment Standards Administration, USDOL. There is no separate Federal regulation of their hours of work. There are 17 Hazardous Occupation Orders. Although each is summarized below, questions regarding a particular regulated occupation can be answered fully by consulting the relevant order or the Wage and Hour Division. Some of the orders are quite detailed, with numerous exceptions to the general prohibition.

Apprentices and student learners are exempted from Hazardous Orders Nos. 5, 8, 10, 12, 14, 16, and 17. Apprentices must be registered by the Bureau of Apprenticeship and Training of the USDOL as employed in accordance with the standards established by that Bureau or by a State apprenticeship agency recognized by the Bureau. Student learners must be enrolled in a course of study and training in a cooperative vocational training program under a recognized State or local educational authority, or a substantially similar program conducted by a private school. A high school graduate who has completed student learner training may be employed in his "hazardous" occupation even though he has not yet reached his 18th birthday.

Order No. 1 - Manufacturing or storage occupations involving explosives or articles containing explosive components.

This order covers establishments involved in manufacturing, processing, or storage of explosives, ammunition, and fireworks. The restriction on the employment of youth under 18 years of age basically applies to all work within the "explosive area," that area which would be damaged if an explosion should occur.

Order No. 2 - Occupation of motor - vehicle driver or outside helper.

This order prohibits all driving on public roads, and work as a helper riding outside the cab of the vehicle. Exception is made for "incidential and occasional" driving, during daylight hours, of autos and trucks not exceeding 6,000 pounds gross weight, if the youth is properly licensed, has completed a State-approved driver education course, the vehicle is equipped with seat belts, and the youth has received special instruction that the seat belts must be used.

Order No. 3 - Coal mine occupations.

All coal mine occupations are prohibited. Exceptions are made for surface slate or refuse picking, and occupations with duties located solely in offices or repair and maintenance shops.

Order No. 4 - Logging and sawmill occupations.

The logging occupations prohibited by this order relate to work around the felling, collecting, and transporting of logs. Work is allowed in offices, in repair or maintenance shops, in the administrative or living quarters of logging camps, in brush-clearing and fire-prevention (not fire fighting) occupations, and in peeling smaller logs.

The basic prohibition of work in sawmill occupations applies to all work requiring entry into the sawmill building. If actual entry into the sawmill building is not required, a youth is allowed to work in repair and maintenance shops, lumber sorting, clean-up, manual splitting of shakes, and manual loading of shakes (with doctor's certificate).

Order No. 5 - Power-driven woodworking machine occupations.

This order applies to both fixed and portable machines and tools for woodworking. It includes operation of the machines, feeding material into the machines, helping an operator, and cleaning and repairing the machines.

Order No. 6 - Occupations involving exposure to radioactive substance and to ionizing radiations.

This order prohibits all occupations in a workroom where radium and other self-luminous compounds and thorium salts are located, or in any other place where a radioactive substance is present at average concentrations exceeding 10 percent of the allowable occupational exposure established by the Bureau of Standards. This order is presently being revised by the Wage and Hour Division.

Order No. 7 - Power-driven hoisting apparatus occupations.

Youth under 18 years of age are prohibited from the operation of any elevator (except an automatic passenger elevator), crane, derrick, hoist (except under 1 ton capacity), or high-lift truck (fork truck). They also may not ride a man lift or non-automatic freight elevator, or assist as a crane hooker or rigger. A detailed exception is made for operation of an automatic elevator.

Order No. 8 - Power-driven metal forming, punching, and shearing machine operations.

The types of metal working machines that youth are prohibited from operating are those that roll, press, punch (except those with full automatic feed and ejection and with full barrier guard), hammer, or shear. Setting up, repairing, and cleaning all metal-working machines is also prohibited. Unlike the wood-

working machine and tool prohibition, metal machine tool operation is not prohibited. Specifically allowed are various types of milling, routing, lathing, planing, grinding, and boring (drilling) machine operation occupations.

Order No. 9 - Occupations in connection with mining, other than coal.

All occupations in or about a mining operation are prohibited, except working in offices, warehouses, supply houses, laboratories, surface repair and maintenance shops, living quarters, outside the mine in surveying, road work, general clean-up about the mine property, and railroad track crew work. Also exempted is work in or about a surface placer mining operation and other limited types of work in metal mills.

Order No. 10 - Occupations involving slaughtering, meat-packing, processing, or rendering.

The specific occupations prohibited by this order apply to slaughtering and meat-packing establishments, rendering plants, and wholesale, retail, or service establishments. Prohibited are all occupations on the killing floor, in curing cellars, and in hide cellars; all occupations involving lard and oil recovery, except for packing and shipping; all occupations in rendering plants; all occupations involving the operation, feeding, cleaning, and repairing of power-driven meat-processing machines; boning occupations; pushing or dropping anything larger than a quarter carcass; and hand-lifting or hand-carrying anything larger than a quarter carcass of beef or horse or a half carcass of pork. Exempted from the order are the killing and processing of poultry and small game in areas physically separated from the large animal killing floor.

Order No. 11 - Power-driven bakery machine occupations.

The occupations prohibited by this order are basically those that involve operating, assisting, cleaning, or repairing dough mixers, molders, breakers, and combination bread slicing and wrapping machines. Setting up or adjusting cookie or cracker machines is also prohibited. There are, however, a number of power-driven bakery machines that are specifically permitted for operation by 16 and 17 year olds. These are machines for dry ingredient preparation and mixing, product forming and shaping, finishing and icing, roll slicing and product wrapping, and pan washing.

Order No. 12 - Power-driven paper products machine operations.

This order prohibits minors under 18 from operating or assisting to operate a variety of paper products machines, from arm-type stitchers and staplers, to scrap-paper balers and platen printing presses. There are a number of paper products machines, however, that are specifically exempted from this order, such as bundling machines, clasp machines, and rotary printing presses.

Order No. 13 - Occupations involved in the manufacture of brick, tile, and kindred products.

The prohibition of this order extends to all work in or about any establishment in which clay construction products are manufactured, except for work in storage and shipping, offices, laboratories, and storerooms, and work in the drying departments of plants manufacturing sewer pipe. Exempted are establishments that manufacture non-structural-bearing clay products, such as floor and wall tile.

Work (except office work) in or about establishments that manufacture silica brick or other refractories is also prohibited.

Order No. 14 - Occupations involving the operation of power-driven circular saws, band saws, and guillotine shears.

Minors under 18 are prohibited from operating, helping to operate, cleaning, and repairing fixed and portable circular saws, band saws, and guillotine shears, without regard to the type of material being cut by the machine.

Order No. 15 - Occupations involving wrecking, demolition, and shipbreaking operations.

Work prohibited by this order includes all work, including clean-up and salvage, performed at the site of the total or partial razing, demolishing, or dismantling of a building or other structure, or a ship or other vessel.

Order No. 16 - Roofing operations.

This order prohibits all occupations in roofing operations, but does not prohibit work attaching appliances to roofs, such as gutter and down-spout work, installation of television antennas, and connection of air conditioners.

Order No. 17 - Occupations in excavation operations.

Working on trenches and excavations is prohibited if the depth at any point exceeds 4 feet. Work in tunnels and shafts is prohibited until all driving and shoring is completed.

STATE CHILD LABOR LAWS AND REGULATIONS

Each of the 50 States, the District of Columbia, and Puerto Rico regulate the employment of youth. There is a notable lack of uniformity among State laws,

however, and although there are many recurring provisions, no 2 States have identical child labor laws. This lack of uniformity is particularly troubling to national corporations. The national corporation often attempts to have a uniform labor policy including master labor agreements covering all of its plants. The process of labor selection may be highly organized and legalistic; plant personnel officers are issued detailed personnel manuals. The national policy of the corporation must, of course, make provision for the most stringent of child labor laws; thus, even in those areas where the laws are relatively permissive, there is a force here in the direction of interstate corporations avoiding the hiring of youth.

For the generalizations regarding State child labor laws and regulations that follow, a number of caveats must be made. The source of our information regarding these laws and regulations was primarily State Child Labor Standards, Bulletin 158, Bureau of Labor Standards, U. S. Department of Labor, published in 1965. This basic source was updated through 1974 by the yearly articles on changes in State labor legislation, published in the January editions of the Monthly Labor Review. In addition, a summary entitled, "Major State Child-Labor Standards Affecting Minors Under 18, As of November 1973," prepared by the Division of State Employment Standards, Employment Standards Administration, U. S. Department of Labor, published in the Book of States, by the Council of State Governments, was used for some compilations. Our data are only as accurate as our sources.

Because of the variation among the State laws and regulations, our generalizations regarding their provisions are somewhat judgmental. This can best

be illustrated by reference to the prohibitions of "hazardous" occupations. Although several States simply adopt the Federal prohibitions, most do not. Individual State provisions range from the simple prohibition of a single industry (mining), to detailed regulations prohibiting employment in specific industries, specific occupations, and operation of specific machines. For this report, the provisions regarding hazardous occupations in each State were reviewed, and a judgment was made in our comparison of the relative impact of State prohibitions and that of the Federal FLSA Hazardous Orders. Obviously, differing judgments could be made.

Our discussion of State child labor laws and regulations covers:

-- Basic minimum age for employment.

-- Requirements for work certificates.

-- Maximum daily and weekly hours.

-- Nightwork restrictions.

-- School attendance requirements.

-- Hazardous occupations.

For the first four topics, a short discussion of the direction of changes in the laws in the 1966-74 period is also included. Only 12 States made no significant changes in their child labor laws during this period, and, in the main, the changes were made to relax the impact of the laws. The reasons for these changes were not explored in this study. For much of the period covered, there was relatively full employment, and it is possible that there was pressure to expand the availability of youth for employment. It is more likely, however, that there is a growing awareness in State legislatures of the importance of jobs to the development of youth.

The coverage of State child labor laws and regulations is two-fold. The State provisions apply to all employment that is not covered by the child labor provisions of the Fair Labor Standards Act. State child labor provisions also apply to employment that is covered by the FLSA if they are more stringent than the Federal standard.

Basic Minimum Age for Employment

All States have established minimum age restrictions for the employment of youth. The degree of restriction of employment for those under the minimum age varies from total prohibition to limited prohibition of some types of employment during school hours. Many States with a relatively low "minimum age for employment" apply it only to school hours, and many States with a relatively high "minimum age for employment" prohibit only factory employment to those below the minimum age.

Table 1. Basic Minimum Age for Employment
(See text for explanation)

Number of States	Basic Minimum Age
21	14 years
2	15 years
29	16 years
52	

In a number of States, youth under the minimum age are allowed to work at certain specified occupations, such as home newspaper delivery, caddying, residential yard work, and babysitting. Also, employment in certain establishments, such as family-operated establishments, farms, and households, is often

exempted from the coverage of the entire law.

Fourteen States made changes in the minimum age provisions of their child labor laws in the 1966-74 period. The changes were relatively balanced -- the net impact of the laws was to increase allowable employment in 7 States, and to decrease it in 7 States. Those States that restricted employment generally did it by prohibiting employment during school hours to those under 16 years of age, the typical age of compulsory school attendance. Ironically, the States decreasinng employment were "catching up" with more progressive States, while the latter were relaxing coverage in the name of work experience.

Requirements for Work Certificates

Work certificates are an interesting form of child labor regulation. In theory, they provide for the registration of a youth and of the youth's job, thus safeguarding youth from abusive employment. In practice, they are often criticized for establishing needless bureaucratic delay and red tape. They are variously issued by local school authorities or by State labor agencies. In order to illustrate the variety among the States with regard to work certiciates, it is useful to describe the systems in several of our survey cities.

In 1971, Colorado revamped its child labor laws, abolishing work permits as such. An employer may require a minor to present an age certificate, issued by local school authorities upon proof of age by the minor. If the employer requires an age certificate of a minor, it must be kept on file and returned to the minor upon termination of employment. Employers are under no reporting requirements regarding their employment of youth, however. Those interviewed in Denver felt that the abolishment of work permit requirememts eliminated needless bureaucracy without adding to child labor abuse.

Ohio's "Age and Schooling Certificates" requirements are quite detailed. All persons under 18 desiring to work at any time, including vacations, must first secure a written promise of a job from an employer, including a description of the duties to be performed. In Cleveland, the youth must next secure a form from the school certifying school attendance. (School attendance is required of every person under 18 years of age.) Next, the youth must report to the Board of Education for a physical examination. If the applicant is in good health, the Board of Education sends a certificate to the employer. This process must be repeated for each new job. Cleveland Board of Education officials justified the long lines of youth waiting for physical examinations in the spring, when school adjourns, and in the fall, when it resumes, by the number of physical problems discovered and then corrected by the procedure. Employers, including some public employers, however, thought that the system was unnecessarily burdensome and that physical examinations, if necessary for youth, should be provided as part of the school program not only for those desiring employment.

In California, employment certificates are required for all minors under 18 years of age. In San Diego City, they are issued by local schools, and in San Diego County they are issued by a central office. In both jurisdictions, however, school or area-based youth employment counselors often visit youths' work sites. Although these counselors do not have child labor law enforcement authority, they can suspend a permit and do report major violations of child labor laws to the enforcement agencies. More often they are able to work out a minor violation with the youth and the employer. Employers in the San Diego area had neither strong positive nor negative feelings about the employment

certification process. This may be because of its personalized nature and lack of bureaucratic delays.

Oregon's employment certification procedure does not involve school officials. A youth sends in a copy of his/her birth certificate to a central Bureau of Labor office and receives back a plastic card that lists name and birthdate. The youth is required to show this card to the employer upon employment, and the employer is required to send in to the Bureau a short form describing the duties of the youth. If a question arises about the allowability of the employment, the employer is contacted by a local official of the Bureau of Labor. Eugene-Springfield employers and school officials universally supported this streamlined employment certificate system.

By the end of 1973, 8 States no longer required work certificates. Sixteen States required work certificates for youth under 16 years of age, 3 States required them until 17 years of age, and 25 States required them until 18 years of age. All 17 States that made changes in their work certificate systems in the 1966-74 period did so in the direction of exempting certain minors from the system or relaxing and streamlining the system itself. Colorado and Utah abolished their work certificate systems.

Maximum Daily and Weekly Hours

Restrictions on the maximum number of hours youth may work in a day or a week and the maximum number of days that they may work in a week significantly limit the range of employment opportunities available to those youth allowed to work. These maximums generally restrict youth from accepting employment

in seasonally intensive work, requiring long hours and much overtime. As can be seen from Table 2, State restrictions range from the 2 States that do not regulate hours to the 5 States that prohibit all youth under 18 from working more than an 8-hour day, 40-hour week, with fewer hours allowed during school days and weeks.

Many States also require youth to take a day or two off each week by limiting the number of days they may work in a week to 5 or 6. Additionally, States may have different regulations for days and weeks that school is in session and non-school days and weeks. These State restrictions on maximum hours of work during school days vary from 3 hours per day, 18 hours per week, to 5 hours per day, 25 hours per week.

Fourteen States have established a different maximum for youth under 16 years of age and those 16-18 years of age. The older group is allowed to work additional hours.

In the 1966-75 period, 16 States made legislative changes affecting the maximum hours a youth may work. In 2 of these States, the changes were minor, exempting from coverage vocational school graduates and work experience and career exploration students. In 8 States, the direction of change was to liberalize the restriction, either by extending the number of allowable hours or lowering the age of coverage, or both. In 6 States, the direction of change was to further restrict the maximum hours a youth may work, or in one case, to increase the age of youth covered from 16 to 18 years.

Table 2. State Maximum Daily, Weekly, and Schoolday Hours

Number of states	Age to which restriction applies	Maximum daily hours/maximum weekly hours(s = Schoolday restrictions)
2	none	----
1	14	8/44
1	15	8/48
1	16	8 daily only
3	16	8/40
9	16	8/40/s
6	16	8/48
2	16	8/48/s
1	16	9/54
14	16, with additional hours allowed for those 16-18 years	8/40 for under 16, 8/48 for 16-18 is typical
1	17	8/48/s
1	18	8/40
5	18	8/40/s
1	18	8/40/s
1	18	8/40/s
1	18	8/48
1	18	9/48
1	18	10/48/s

Nightwork Restrictions

Restrictions on youth working during the evening hours create another impediment to obtaining a significant number of jobs. In theory, nightwork restrictions protect youth from missing valuable sleep and from traveling unsupervised at night, but, in practice, youth may not be employees in a number of retail establishments during hours they might otherwise be found in those establishments as customers. Nightwork is restricted to youth in such places as recreational centers, supermarkets, drug stores, and restaraunts.

There is wide variety in nightwork restrictions regarding age, sex, hours restricted, type of establishment, whether or not the night preceeds a school day, whether or not it is during vacation, and whether or not the worker is enrolled in school.

As of November, 1973, 5 States still had more restrictive nightwork provisions for girls than boys. Two States had no nightwork provisions. For those States regulating the nightwork of youth under 16 years, the hour after which the youth cannot work varies from 6 p.m. to 10 p.m. For the 16-18 age group, the latest hour of permissible work varies from 10 p.m. to 12:30 a.m. About half of the States provided for a later allowable hour of work on Fridays and Saturdays, non-school days, during vacations, and/or between June 1 and Labor Day. The earliest hour in the morning that a youth is allowed to work varies between 5 a.m. and 8 a.m. (Puerto Rico only), with the typical beginning hour being 6 a.m.

Table 3. State Nightwork Restrictions

Number of States	Age at which restriction applies
2	Under 14 only
1	Under 15 only
1	Under 14 and 14-16*
22	Under 16 only
1	Under 16 and 16-17*
20	Under 16 and 16-18*
1	Under 16 boys, under 18 girls
2	Under 18 only
2	No nightwork restrictions
52	

*Separate restrictions for the different ages mentioned.

The direction of State legislative change in nightwork restrictions in the 1966-74 period has been to liberalize the hours a youth may work at night. Of the 28 States that changed their laws in the period, 27 of them liberalized the hours a youth may work at night or reduced the age covered by the law. Employers in our survey felt that there was a growing recognition of business transacted after dark, particularly in suburban shopping centers.

School Attendance Requirements

All States, except Mississippi, now have compulsory education statutes. A person required to attend school cannot work during school hours. A number

of States have created exceptions to their compulsory attendance requirements, however, and some school-aged youth are allowed to work when they might otherwise be compelled to go to school. In some States, these exceptions are provided for those who are certified as not profiting from further schooling; in others, youth are excused from school simply because they are employed. In addition, some of these same States, and others, require school dropouts both below and above the compulsory school age to attend a special part-time school, called continuation school.

To illustrate, Ohio requires school attendance of persons under the age of 18 except those "employed on certificate." A full-time employed person 16-18 years of age is required to attend continuation school for at least 8 hours per week. Youth under 16 years are not issued employment certificates for work during school hours. California, on the other hand, requires full-time school attendance only until 16 years of age. All youth under 18 years of age must secure a work permit, however, and a work permit is not issued unless the youth is enrolled in a continuation school for at least 4 hours per week. Although the laws are different, their impact is the same.

Table 4. State Full-Time School Attendance Requirements

Number of States	Age at which school attendance is no longer required
1	No compulsory school attendance law
40	16 years
8	17 years
3	18 years
52	

State requirements for continuation school are usually age-based. In a number of States, however, the requirement to attend continuation school may be limited to proficiency at a level less than 12th grade. For example, Nevada requires employed youth between 14 and 17 years of age, not in regular school, to attend continuation school, except those who have completed the 8th grade and have a recognized reason for not attending regular school.

Table 5. State Continuation School Requirements

Number of States	Type of requirement
25	No continuation school provision
7	Local jurisdictions permitted to establish; attendance not required
3	Local jurisdictions permitted to establish and require attendance
8	Attendance required until 16 years
2	Attendance required until 17 years
7	Attendance required until 18 years
52	

Legislative exceptions to full-time school attendance may also be made for those mentally deficient or for those living too far away from the school bus route. Our concern in the following table is only with those exceptions that relate to employment. In addition to the age limitations noted in the table, special certification, continuation school, a particular level of educational proficiency, and/or particular employment may be required.

Table 6. State Employment-Based Exceptions to Compulsory Attendance Statutes

Number of States	Minimum age for exception to apply
12	No age minimum
12	At least 14 years
4	-- No continuation school required
8	-- Continuation school required
3	At least 15 years
3	At least 16 years
21	No employment-based exceptions to law
1	No compulsory attendance statute

Hazardous Occupations

Special protection of the life, limb, or morals of youth is accomplished by State prohibitions of the employment of youth in specified occupations, specified industries, and/or the operation of specified machinery. Again, wide variety is found among the State laws and regulations. While 14 States have adopted, by law or regulation, the Federal FLSA standard, the remainder have not. Even though a State's hazardous occupation prohibitions may be less restrictive than the FLSA Hazardous Orders in the number of occupations prohibited, they function as an addition to the Federal Orders because of the rule that the more restrictive provision governs establishments covered by the Federal law.

Because of the wide variety among the States in the industries, occupations, and machinery prohibited as hazardous, any comparison of provisions must be judgmental. Nevertheless, the comparisons of State laws and regulations to the

Federal Hazardous Orders is provided in Table 7, in order to give the reader a feel for the coverage of these State provisions.

Table 7. Comparison of State Hazardous Order Provisions to the Federal FLSA Hazardous Orders

Number of States	Comparison to Federal FLSA Standard
(27)	Less restrictive than FLSA.
6	-- No significant employment restricted.
19	-- Significant employment restrictions of youth under 16 years; no significant restriction of those 16-18 years.
2	-- Significant restrictions on youth under 16 years and 16-18 years, but not as substantial as FLSA.
(18)	Restriction of employment to about the same degree as FLSA.
14	-- Adopts FLSA standard, exactly or close to it.
4	-- Restricts employment of youth under 18 to about the FLSA degree; also restricts employment of youth under 16 to a significant degree.
(7)	Restriction of employment more significant than FLSA.
2	-- Restricts employment of youth under 18, without significant restrictions of those under 16.
5	-- Restricts employment of those under 18 with additional restrictions of those under 16.
52	

In many States, the child labor laws vest power within an administrative agency to declare certain occupations hazardous for children; in others, the hazardous occupations are determined by law. In some States, these agencies may

only regulate the employment of those under a certain age. The following is a summary of legal provisions for these State agencies:

Table 8. State Administrative Agencies for the Regulation of Hazardous Occupations

Number of States	Type of provision
(11)	No state agency provided.
6	-- No significant restrictions on hazardous occupations by law.
3	-- Significant hazardous occupation restrictions by law.
1	-- School board prohibits certain hazardous occupations as a matter of policy.
1	-- State agency provided to allow exceptions to significant legal prohibitions.
(14)	Adopts the FLSA standard for Hazardous Occupations. May or may not have a State agency to establish other prohibitions.
(27)	Administrative agency established by law.
17	-- May regulate employment of minors or minors under 18 years.
10	-- May regulate employment of minors under 16 years of age only.

52

One of the common threads running through State child labor laws and administrative orders, rules, and regulations on hazardous occupations is the prohibition of the operation of all or certain kinds of power-driven machinery -- of the type found in many industrial plants. Forty-four of the States provide

some kind of machinery-operation regulation. The following table provides an outline of these State restrictions.

Table 9. State Regulation of the Operation of Machinery by Minors

Number of States	Type of prohibition
8	No restriction on operation of machinery.
8	All power-driven machinery prohibited to those under 16 years; no restrictions on those over 16 years.
10	Certain enumerated machinery restricted to those under 16 years; no restrictions on those over 16 years.
5	All power-driven machinery prohibited to those under 16 years; enumerated machinery prohibited to those under 18 years.
2	Certain enumerated machinery prohibited to those under 18 years; additional enumerated machinery prohibited to those under 16 years.
4	Certain enumerated machinery prohibited to those under 18 years.
1	"Hazardous power-driven" machinery prohibited to those under 18 years.
14	FLSA standard of hazardous occupations prohibited to those under 18 years.
52	

Restrictions of youth employment to protect their morals is also frequently found in child labor laws. Examples of these restrictions are employment in pool and billiard parlors, motion picture theatres, as messengers, in street selling and other employment "for immoral purposes." Eighteen States restrict the employment of minors in pool halls and billiard parlors, half restricting minors under 16 years and half restricting minors under 18 years.

SECONDARY SOURCES OF YOUTH EMPLOYMENT RESTRICTIONS

Age of Majority

The age of majority is of utmost importance in legal matters, particularly in the field of contracts. It is the universal rule that the contracts of minor (for non-necessaries) are voidable by the minors and thus not enforceable against them. Minors, however, may enforce their contracts with adults. This common law and statutory rule is of particular importance in the employment of youth in sales positions in which a written sales or conditional sales contract is made with the customer. Installment sales agreements are usually conditional sales contracts. Employers, fearing that the involvement of a minor in a commercial transaction will somehow taint the resultant contract, often do not hire youth under the age of majority for contract sales positions.

As of 1972, the age of majority for contracts was 21 in 43 States and the District of Columbia; 21 for males and 18 for females in 6 States; and 20 for both sexes in Hawaii.[1/] State legislative action and recent Supreme Court decisions on sex discrimination may have impacted these age standards in the past few years and for the near future.

Apprenticeship Program Requirements

Young people gain entry into almost all unionized trades and crafts by beginning as an apprentice. Normally apprenticeship is a 1 to 5 year process whereby the apprentice learns the major skill components of the trade or craft

---

1/ Samuel G. Cling Complete Guide to Everyday Law, 3rd edition, Chicago: Follett Publishing Company, 1973, p. 118.

through on-the-job work experience and off-the-job classroom instruction in technical and theoretical matters. The apprentice usually begins work at a wage based on a percentage of the journeyman's rate and moves toward journeyman's wages as skills and training increase.

Any occupation requiring training could theoretically be organized to have an apprenticeship program. The Bureau of Apprenticeship and Training (BAT) of the U. S. Department of Labor, which sets national standards for apprenticeship programs, has developed the following definition of an apprenticeable occupation:

1. Is learned through experience and training on the job supplemented by related technical instruction.
2. Involves manual, mechanical, or technical skills and knowledge, requiring a minimum of 2,000 hours of work experience, including related instruction.
3. Is not part of an existing apprenticeable occupation already recognized by BAT, unless it is practiced industry-wide as a distinct and identifiable trade.
4. Involves the development of skills broad enough to be applicable throughout an industry.
5. Is not primarily selling, managerial, clerical, or professional.

The Bureau of Apprenticeship and Training has recognized a host of apprenticeable occupations and has organized them into a classification system containing more than 90 basic apprenticeable occupations. For these basic categories, national standards for apprenticeship programs have been developed by industry/labor/BAT committees. For all apprenticeship programs, BAT has set a minimum entry age of 16 years. For individual programs, the entry age

requirement varies from 16 to 18 years, with the majority of programs having an 18 years of age minimum. In addition, education standards for entry into a number of apprenticeship programs are set at high school graduation or the equivalent. The prevailing minimum age could be well beyond age 18 because of long waiting lists, especially in the building trades.

Individual apprenticeship programs are developed and run at the local level by joint apprenticeship councils, composed of industry, labor, and perhaps public representatives. The entry requirements set by these councils may be higher than the national standard, but cannot be lower. State apprenticeship councils act as an intermediary between local councils and the Federal government, and may, in turn, set entry requirements for apprenticeship programs different from national or local standards.

Table 10 shows suggested minimum age and education standards of selected apprenticeship programs. Local programs may provide higher standards.

Table 10. Suggested Selected National Apprenticeship Program Standards: Minimum Age and Required Education.

Industry	Minimum Age	Required Education
Bricklaying	17	
Painting, decorating, and drywall finishing	16	
Cement masonry, asphalt and composition trades	17	
Sheet metal industry	18	
Retail bakers	18	
Opthalmic finisher-dispenser	17	High school graduate or equivalent
Photographic equipment repair industry	16	High school graduate or GED may be required by employer
Retail meat cutting industry	18	
Automobile mechanic, body repairer, and painter	18	
Allied Industrial Workers (toolmaker, industrial machine repairman, tool and die maker, industrial electrician, millwright, industrial welder, stationary engineer, sheet metal worker, tinsmith, metal patternmaker, wood patternmaker, tool designer, draftsman, pipe-fitter, automobile mechanic)	18	High school graduate or equivalent
Truck mechanics	18	
Orthotic and prosthetic technician	18	

Source: Individual apprenticeship program standards booklets, published by the Bureau of Apprenticeship and Training, U. S. Department of Labor.

Compulsory Military Service

Compulsory military service is not presently required in the United States, but, since it has so often been required, it deserves comment here, particularly since the requirements are based on age. When such service is required it has the potential for having a substantial negative impact on the employment of youth.

When the draft was in effect, it fell on youth 18-26 years of age who did not have an obvious physical disability or were not continuing full time education. They were classified as 1-A, and typically were not screened for physical or mental disabilities until just before or when they received a notice of induction. In the meantime, they were in a state of limbo, knowing they might have to enter the Armed Services, but not knowing when. This made it difficult to enter into employment training or into a career occupation.

Employers clearly recognized the impact of the draft. Employment applications asked for draft status. Draftable persons were often not wanted. It was not worth the time or expense to train a youth who soon would be leaving. This reasoning also often applied to those well below the age at which entry into the military was actually taking place.

Another effect of the draft was to limit career exploration of draftable young men. Students were entitled to a deferment; workers were not. Unless one was interested in a military career, it was unwise to "stop out" to explore career alternatives. Significant decreases in college and graduate school enrollments were recorded when the draft was ended.

Insurance and Bonding Requirements

In the NMI survey, employers were not directly asked about insurance coverage problems connected with the employment of youth, and they did not often volunteer that this was a problem. However, some youth employment counselors interviewed did mention that insurance problems were stated by employers as a reason for not hiring youth. Other studies have also reported this employer response. Therefore, inquiry was made of insurance industry trade association executives and local (Washington, D. C.) inusrance agents to determine the extent of age-based limitations in business insurance coverage. Separate research of State insurance laws was not conducted.

The principal types of business insurance covering employees and employers for damages caused to or by the employees are motor vehicle and motor vehicle operators liability insurance, general liability insurance, bonding or surety insurance, and workers' compensation insurance.

Liability insurance coverage for damage caused by a businessman's motor vehicles is usually written on the vehicles themselves, without reference to the persons authorized to drive them. Rates are based on the type of vehicles covered and their use and not on the age of the drivers of the vehicles. Although it is possible that an insurance company might quote a small company a rate based on the age of the vehicle operators, it is unlikely, and not industry practice. Employee turnover in motor vehicle operator occupations would make age-based insurance rates too much of an administrative problem.

General liability insurance protects the employer from losses caused by the fault of an employee. Premium rates are based on the type and size of the

business, not on the age of its employees. No age-based exclusions or provisions in this type of insurance are known.

Bonding, or surety insurance, is a type of insurance whereby the bonding or surety company agrees to stand in the place of the employee in the case of a legal claim against the employee. The insurance agreement is formally between the insurance company and the employee, although the employer may pay the premium and have legal rights in the bonding agreement. Bonds are required by State law for some occupations, such as bank teller and public messenger. In other occupations, bonding may be an industry practice, such as for appliance serivce persons entering private homes.

Where bonding requirements are provided by law, a minimum age for the regulated employment may also be provided. In addition, bonding companies often establish a minimum age for the issuance of a bond. This minimum age is age of legal majority (see separate discussion, above, under Age of Majority), for the bonding agreement is a formal contract and might not be enforceable against a minor if the bonding company attempted to indemnify itself against the minor for a claim.

Workmen's Compensation provides for payment by the insurance company to the employee for a work-related injury, regardless of fault. In case of injury to an illegally employed minor, State law may require that the employer, and not the insurance company, pay the claim or an additional amount as penalty. (See discussion of Workmen's Compensation below.) Workers' compensation insurance policies usually contain a disclaimer to this effect.

It is possible that employers reason that it is not worth the risk that a young employee might do something illegal and thereby be injured, or that employers do not fully understand the complex provisions of insurance policies. In any event, significant insurance problems, in fact, do not seem to be a widespread problem.

Minimum Age Requirements for Employment in Establishments Selling Alcoholic Beverages

State statutory restrictions on the employment of youth in establishments where alcoholic beverages are sold keep youth from employment in a larger number of instances than may be commonly understood. There are many establishments (restaurants) where alcoholic beverages are sold, and the types of jobs in these establishments are those for which youth regularly would be considered, but for the alcoholic beverage restriction. These jobs tend to have busy periods (evenings) when youth are available for work.

The minimum age for employment in establishments where alcoholic beverages are sold varies from State to State, as does the degree of restriction. Many States restrict youth only from selling, serving, dispensing, or handling alcoholic beverages, or any combination of these tasks; all other or some other employment in the establishment is allowed. Other States simply restrict all employment in establishments where alcoholic beverages are sold.

Table 11. State Minimum Age Requirements for the Selling, Handling, Serving, or Dispensing of Alcoholic Beverages.

Number of States	Minimum Age
22	21 years
2	20 years
5	19 years
22	18 years
51	

Note: As of July, 1973. This table should be used as a guide only. Some States may only restrict selling and/or serving at the ages given. In other States, the restriction may encompass any handling whatsoever of alcoholic beverages. In addition, specific rules may vary among local jurisdictions.

Table 12. State Minimum Age Requirements for Employment in Establishments Where Alcoholic Beverages are Sold or Served, in Occupations Other Than Selling, Serving, Dispensing, or Handling.

Number of States	Minimum Age
3	21 years
1	19 years
17	18 years
1	18 years for some occupations, 16 for other occupations.
1	17 years
6	16 years
22	No age restrictions other than on selling, serving, dispensing, or handling, or some combination thereof.
51	

Note: As of July, 1973. This table should be used as a guide only. Age restrictions may apply only for certain establishments (On-sale/off-sale is a frequent basis for distinction), certain alcoholic beverages may be exempted (beer and/or wine, for example), or the restrictions may apply only to certain occupations (waiters and waitresses, for example), or certain occupations may be exempted (stock clerks of unopened containers, for example). In the table, a judgment was made as to the minimum age requirement that would cover most occupations in establishments where alcoholic beverages are served. In addition, specific rules may vary among local jurisdictions.

Source: From a compilation of the Distilled Spirits Council of the United States, Inc., based on information from the Liquor Control Law Reporter, Commerce Clearing House.

Motor Vehicle Permits

The operation of motor vehicles by youth in employment is separately controlled by Federal and State child labor laws and regulations and by State motor vehicle permit licensing laws. The Federal restriction is found in Hazardous Occupation Order No. 2, already discussed above under the Fair Labor Standards Act. Thirty-two State child labor laws also regulate the operation of motor vehicles by youth, covering establishments not covered by the FLSA and those covered by the FLSA where the regulation is more stringent than the Federal Hazardous Occupation Order. Twenty-one States prohibit youth under 18 from operating a motor vehicle in employment. Three of these States' laws contain exceptions allowing employment-related driving of certain light vehicles, and 13 directly adopt the Federal standard allowing light vehicle driving. The remaining 11 States prohibit motor vehicle operation in employment only to those under 16 years of age.

State motor vehicle permit licensing laws additionally restrict employment-related driving by youth. There are two forms of these laws. The more modern laws, adopted by the Uniform Vehicle Code, simply license motor vehicle drivers. The older laws distinguish between motor vehicle operators (driving for their private use) and motor vehicle chauffeurs (driving in employment or for pay). For those laws with the operator/chauffeur distinction, a higher minimum age is required for a chauffeur than for an operator. Under both types of laws a lower minimum age may be established for those who complete an approved driver education course. Under both laws separate permits may also be required for special vehicles, such as school busses, tractor-trailers, or vehicles carrying

passengers for compensation. Higher minimum ages may be established for these special permits.

Table 13. State Minimum Age Requirements for a Motor Vehicle Driver's Permit

Number of States	Minimum Age
12	18 years
3	17 years
10	16 years
25	[In 10 of the 25 States, the minimum age is lowered (usually from 18 to 16) for those who complete an approved driver education course.]

Table 14. State Minimum Age Requirements for a Motor Vehicle Operator's Permit (Private Use).

Number of States	Minimum Age
(Includes the District of Columbia)	
8	18 years
1	16.5 years
15	16 years
2	15 years
26	(In 10 of the 26 States, the minimum age is lowered for those who complete an approved driver education course.)

Table 15. State Minimum Age Requirements for a Motor Vehicle Chauffeur's Permit (Driving for pay)

Number of States	Minimum Age
(Includes the District of Columbia)	
1	21 years
23	18 years
1	17 years
1	16 years
26	

Table 16. State Minimum Age Requirements for a School Bus Operator's Permit

Number of States	Minimum Age
15	21 years
1	19 years
21	18 years
3	17 years
1	16 years
41	

Table 17. State Minimum Age Requirements for Permits Allowing for Carrying of Passengers for Compensation

Number of States	Minimum Age
8	21 years
6	18-21 years, distinguishing between taxis and busses
1	19 years
1	18 years, for taxis only
1	

Source for Tables 13 through 17: Driver Licensing Laws Annotated, 1973 edition, National Committee on the Uniform Vehicle Code: Washington, D. C., 1974.

Occupational and Professional Licensing

There is a wide proliferation of State and local statutory requirements for professional licenses in the United States. A study of State licensing requirements for 25 health occupations discovered 794 relevant statutes in the 50 States and the District of Columbia.[2/] Examples of occupations requiring licensing in many jurisdictions are: airline mechanics, barbers, cosmetologists, dental hygienists, dry cleaners, electricians, exterminators, fence installers, funeral directors, hearing aid dispensers, masseurs, mobile home repairers, officers aboard ships in the U. S. Merchant Marine, operators of heavy construction equipment, ophthalmic dispensers, plumbers, practical nurses, private investigators, refrigeration repairers, stationary engineers, watchmakers, and welders.

[2/] State Licensing in Health Occupations, U. S. Public Health Service, Department of Health, Education, and Welfare, Washington, D. C.: U. S. Government Printing Office, 1968.

The impact of licensing requirements on the employment of youth lies in the minimum age requirements of many licensing laws. Although the qualification requirements for these occupations may include education and training which realistically cannot be completed before the minimum age, in a number of occupations the age restriction acts as a separate limitation on the participation of youth. This is particularly true of those occupations for which the required instruction and training is offered as part of public high school curricula, such as barbering, cosmetology, shorthand reporting, and vocational trades.

There is little consistency in the minimum age requirements for various occupational licenses within jurisdictions or for a particular occupational license among the multitude of jurisdictions. For example, the minimum age to obtain a license in the construction trades is 16-18 years in most jurisdictions, but it is 21 years in Los Angeles and in Illinois. In New York City, one must be 21 years of age to be licensed as a master electrician or a portable or stationary engineer, 25 to be a master sign painter, and no minimum age is required to be a structural welder or a master plumber.[3/]

Clearly a case can be made for greater consistency in the minimum age requirements for occupational licenses.

[3/] Occupational Licensing and Public Policy, Princeton, New Jersey: Educational Testing Service , 1972, p. 130. This is an excellent source for background on occupational licensing.

Occupational Safety and Health

Occupational safety and health is a major concern of large State and Federal bureaucracies, as well as of the workers in and managers of every industrial plant. The Federal Occupational Safety and Health Act of 1970 (OSHA) applied to every employer of more than one employee, except industrial employers previously covered by Federal safety law (e.g., mining industries). If a State develops a safety enforcement plan which meets the Federal standards, the Federal authorities withdraw from OSHA enforcement. As of April 1975, 25 States had Federally approved plans. In the remainder of the States, safety and health enforcement is provided by Federal authorities, although States with "little OSHA" plans or legislation may exercise concurrent jurisdiction.

Federal and State OSHA safety requirements apply to all places, operations, and employees of a regulated employer. None of the OSHA provisions contain age-based standards.

Many of the employers and public officials interviewed in our survey felt that modern OSHA safety requirements provide ample protection for young workers. They considered the child labor law Hazardous Occupation Orders to be superfluous with the advent of OSHA. In their view, safety is safety; the OSHA safety protection provided for all workers in modern industrial plants is virtually foolproof and the plants do not contain real hazards for young workers.

However, this was not the view of most State and Federal child labor investigators interviewed. They felt that young workers are by nature experimental; they invent new and novel ways every day to get injured on the job.

Workmens Compensation Penalties

Workmens Compensation provides for payment to an employee injured on the job regardless of fault. Employers are required by State law to obtain Workmens Compensation insurance or to pay a payroll and industry-based premium into a workers' compensation fund from which workers' claims are paid. Premiums, either for insurance or into a State fund, are not based upon the age of the employer's work force.

The Workmens Compensation laws of 18 States provide for a penalty to be paid to an illegally employed minor injured on the job. The amount of the penalty ranges from an additional 50 percent to an additional 200 percent of the claim. In 8 States, the employer must pay the penalty, or the entire claim, and insurance companies may not indemnify the employer for his loss. In 2 States, the penalty is discretionary, to be determined by the Workmens Compensation Board. In the remainder, the penalty is automatic. In 3 States, the penalty is paid only to minors under a specified age which is lower than the age of coverage of that State's child labor laws.[4/]

The impact of these penalty provisions on the employment of youth may be substantial. Fearing the possibility of a penalty, employers may prefer to avoid entirely the hiring of those in ages covered by child labor laws. This

---

[4/] "Provisions Relating to Additional Compensation in Case of Injury to Illegally Employed Minors," Interdepartmental Workmens Compensation Task Force, Office of the Secretary, U. S. Department of Labor, March 28, 1975, unpublished.

may explain the oft-cited "insurance problem" reason given by employers for not hiring youth. (See the discussion of Insurance and Bonding Requirements above.) Another byproduct of these penalty provisions is that investigation of the Workmens Compensation claims of minors to determine the status of their employment has become a major duty of State child labor law enforcement officials, which itself suggests the legitimacy of employer concern.

Work Under Federal Contracts

The Walsh-Healey Public Contracts Act of 1936 established a minimum age for employment under Federal (public) contracts. It applies to subcontracts of Federal contracts, as well as work done under the contract itself. The original minimum age restriction was 18 for girls and 16 for boys. This was changed by Executive Order several years ago to 16 years of age for all persons.

* * *

This is the factual basis, as far as can be determined within limited time and resources, for actions based on law, or stemming indirectly from laws, which limit youth employment. This has taken the investigation beyond regular "child labor laws," the original purview of this study, a step thought desirable by the investigators from their field experience in actually listening to employers, counselors, and law enforcement officials talk about their daily problems. Time did not permit adequate investigation of these additional factors.

VI. Work Experience - Concepts and Programs

The growth of youth work experience opportunities, linking the world of education to the world of work, has accompanied the increase in independent labor force participation by youth. During the course of this study, we obtained limited data on currently implemented work experience programs.

While "work experience" is employment, and is addressed throughout this study, the planned inter-mixture of employment experience and education, and the barriers the law may erect to such efforts is thought important enough to single out for separate attention. The scope of this research did not, however, permit a thorough, definitive study of work experience in the 6 cities surveyed. However, a general impression of work experience emerged as viewed by employers, educators and others interested or involved in programs designed to provide students with work experience opportunities. Areas only briefly touched upon and in need of further and more intensive investigation in relation to planned work experience programs include minimum wage laws, insurance coverage, transportation needs, school attendance laws, and involvement by employee organizations.

Work Experience

Recent developments argue convincingly for redirecting child labor laws from their original almost exclusively regulatory role towards an expansion of youth employment opportunities. Among these developments are: the demonstrated success of young people with part-time work backgrounds in obtaining full-time employment after leaving school; the increased receptivity of educators to alternatives (whether work experience programs, alternating or recurrent

education); the high unemployment rate among youth; and the prevailing feeling that the differing Federal and State regulations lead to confusion.

Background

Since 1938, government efforts have been concerned with keeping youth out of work and longer in school rather than with getting them into work. Work has been viewed as a dilution of, diversion from, or inhibition to attaining the goal of additional education for youth. But work and school are still not mutually exclusive, as demonstrated by the fact that the labor force participation rate of young people in school has risen. In absolute terms, the cumulative work experience of young people has increased and is still increasing.

Despite the growth in the number of working youth, there has not been a wide-scale attempt to relate work experience to educational, training, career and socialization goals, especially in private sector employment. What are the explanations: Possibilities include: compulsory school legislation (to be discussed in greater detail below); the philosophy of separation of education from work and other worldly concerns which combined with some ineptness in school administrators and teachers, has separated curriculum from economic reality; the desire of parents to see their children achieve success and security through education rather than "hard labor" and the growth of disposable income which allows parents to afford the cost of more education for their children; the acceptance of educational credentials as a substitute for work experience and as an indication of trainability. Additional barriers to youth participation in work experience are created by the structuring of most jobs on a full-time basis and, through collective bargaining, the growth of increased employee benefits and job security practices which favor full-time employees over casual labor. Young workers under 18

often require special insurance, possess limited job flexibility due to State and Federal hazardous orders, and may impose added administrative restrictions on their employer. Such constraints serve to protect youth from possible harm but, at the same time, make it difficult for them to have work experiences which may benefit their growth and development. Thus, while it has become increasingly common for youth to attend school and to work, in most instances these experiences have developed independently, with limited attempts at coordination.

Benefits of Work Experience

In its report, Youth: Transition to Adulthood, the Panel on Youth of the President's Science Advisory Committee stated "The rights of youth to protection and rights of youth to opportunity are, we believe, for most youth presently unbalanced in the direction of too little opportunity." Many educators are emphasizing the need for experiential learning to expose young people to the world of work beyond the boundaries of the school. Increasingly, work experience is seen as an integral part of youth's life, demanding flexible environments for involving students in the "real world" by integrating and expanding opportunities for learning experiences both within the school and outside it.

For in-school youth, work experience means a chance to earn money, to explore possible vocational interests, and to mature in a work environment under educational supervision. Additionally, the skills and knowledge acquired during such work experience are potentially important elements in the determination of how well youth will fare upon entering the labor force on a full-time basis.

Although the job choices available to students are narrow and often bear little resemblance to long-term career positions, recent studies have found, nonetheless, that those with some past work experience find their vocational career choices more satisfactory than those lacking such exposure. Students who have had considerable work experience during high school tend to earn higher wages, enjoy greater job satisfaction and have only one-fifth the likelihood of being unemployed in the years immediately following graduation.[1/] In terms of attitudes and relevance, students participating in cooperative education programs were found to be generally much happier with their high school education than other studeats. The cooperative education students also earned higher wages, during and after high school, and experienced fewer months of unemployment after high school.[2/]

Despite the need for more hard data regarding the value of work experience programs, it is generally assumed that such arrangements contain rich potential

---

1/ H. Parnes, et al., Career Thresholds: A Longitudinal Study of the Educational and Labor Market Experience of Male Youth.

2/ E. Stromsdorfer and J. Fackler , An Economic and Institutional Analysis of the Cooperative Vocational Education Program in Dayton, Ohio.

for contributing to youth's transition from youth to adulthood in general and from school to work in particular. It is asserted that properly developed work experience can provide young people with: (a) insight into jobs and careers necessary for effective career decision-making; (b) actual experience necessary for acquiring a job; (c) additional contacts and credentials, besides those of the schools, through which students can make a necessary transition to working careers; and (d) skills and abilities useful in identifying, securing, and performing a job.

Development of Work-Experience Programs: On the Secondary Level

Federal support and encouragement for the development of vocational education in the schools began with the passage of the Smith-Hughes Act in 1917. Under this act, vocational programs were to fulfill the function of preparing high school students for employment upon graduation. The effect of this approach, however, was to transpose the workplace into the classroom. No outside work experience was involved. Additionally, initial funds provided by the act were spent mainly on training for specific occupations, particularly in the fields of agriculture and home economics. It is only recently that funds have been shifted from these areas to a wider range of occupations.

The first experiments incorporating actual outside work experience opportunities as part of the individual and institutional educational process were developed as a cooperative education program for engineering students at the University of Cincinnati in 1906. This program was adopted for use at the secondary level of the Dayton, Ohio, schools in 1913. Cooperative education was conceived of as a program of vocational education supplying instruction

through a jointly planned and supervised arrangement between school and employers, thus alternating classroom study with on-the-job experience.

High school cooperative education programs were gradually adopted in a number of cities throughout the nation, often without the benefit of outside financial support. These programs demonstrated a remarkable staying power and in most places survived the depression years, although operating at reduced levels. It was not until the passage of the Vocational Education Act of 1963, however, that enrollments in secondary level cooperative education programs were dramatically increased. This act broadened the concept of vocational education programs, substantially increased the total amount of Federal money supporting such programs, and, for the first time, permitted use of this money to pay students participating in work experience programs. The Vocational Education Amendments of 1968 provided further support for cooperative education by setting aside separate funds to expand cooperative vocational education. These separate funds served to supplement the amount of money States were already using, from their own and Federal sources, to support cooperative education. Specific occupations were no longer designated to receive funding; rather, the funds were to serve the needs of individual students and communities. Today almost half a million students are enrolled in cooperative programs funded with Federal vocational education monies.[3/]

[3/] Adapted from "Summary Data: Vocational Education, Fiscal Year 1972," U.S.D.H.E.W., O.E., Bureau of Adult, Vocational, and Technical Education, Washington, D. C., 1973.

The cooperative education program represents an effort to use actual work experience as a means of providing youth with specific occupational training while they are still in the education system. Other work programs arranged for youth serve other objectives. The increasing importance of educational credentials as qualifications for entry into employment has led to a growing concern with keeping youth in school until such time as they attain at least minimum educational qualifications. In many instances the provision of work opportunities makes it economically possible for youth to continue their education. Work-study arrangements initially developed informally at the community level to serve this objective. The Vocational Education Act of 1963 set aside specific funds for the support of work-study opportunities "as a source of income to needy students." In 1972, 23,200 secondary school students were funded under this legislative provision.[4/]

While the Federal work-study program was created with the aim of providing income-generating work opportunities for those students who wanted to stay in school but would not be able to do so without additional economic resources, a variety of efforts was initiated to prevent premature school leaving; many of these contained work experience components. For example, the Work Experience and Career Exploration Program (WECEP) involves youth under 16 in jobs in retail stores, gasoline service stations, libraries, medical offices, hospitals, banks, etc. Some 8,000 students in 11 states are currently involved. WECEP

[4/] "Summary Data," op. cit.

serves primarily those 14 and 15 year olds identified as dropout prone and is aimed at helping them to become reoriented and motivated toward education and career exploration. The program was made possible by an amendment in the Child Labor Regulations. Under a waiver of these rules, youth can work a maximum of 28 hours per week during school session and 40 hours per week during school recess.[5/]

Other programs containing work experience and work exposure components are cooperatively arranged between local schools and employers as a part of efforts to encourage youth to stay in school through graduation. Such programs often include specific exemptions from Federal and/or State regulations. For example: New York State provides a driving age exemption for an evening work experience program in Nassau County.

On the Postsecondary Level

At the secondary level, there has been a limited but significant growth of work experience programs which require or facilitate mixing of education and work. At the postsecondary level, work experience program administrators do not generally encounter problems relating to child labor restrictions, as most postsecondary students are over 18, although limitations in certain areas (such as serving and selling of alcoholic beverages) do often still exist.

5/ E. Stromsdorfer, An Economic Analysis of the Work Experience and Career Exploration (WECEP) Program, 1970-1971, prepared for the U. S. Department of Labor.

Cooperative education has proved a particularly useful educational practice for students in engineering, business, and accounting with growing use in non-technical institutions. According to a 1971 survey, over 125,000 students at some 277 colleges and universities throughout the U. S. were participating in cooperative education programs, supported in part by Federal funds appropriated under the Vocational Education Act of 1963 and the Higher Education Act of 1965, as amended.

The College Work-Study Program provided 545,000 needy students with part-time work opportunities through 2,500 postsecondary educational institutions in 1970.

In addition to these programs, many postsecondary institutions offer or require internship or in-service training experiences as integral parts of specific educational programs, although no statistics are currently available on the total number of participants in these internship programs.

Apprenticeship Programs

Apprenticeship programs combine on-the-job training and work experience with related formal instruction in the theoretical aspects of a trade. Although formal apprenticeship is much less popular in the United States than in Western Europe, over 200,000 persons can be found in apprenticeship training in this country at any one time and almost 40,000 become trained journeymen every year.6/

6/ E. Ginzberg, Career Guidance: Who Needs It, Who Provides It, Who Can Improve It.

Apprentices are normally required to take 144 hours of related instruction a year in addition to on-the-job training. Unions and employers determine apprenticeship requirements and conduct their own programs according to certification standards developed by the Bureau of Apprenticeship and Training within the U. S. Department of Labor. Nearly all apprenticeship programs are privately financed and administered and there is no specific requirement that they be certified. Apprentices are often excepted from the coverage of certain Hazardous Orders.

Rather than concentrating on particular narrow aspects of a trade, apprentices receive general training and a chance at a broader range of jobs, thus giving them greater employment stability than a highly specialized or less trained workman. The apprentice is paid (and often well-paid) during the training period and receives immediate first-hand experience in the world of work. Although little analytical research has been done on the value of apprenticeship, both the apprentice and the employer benefit from the program and there is great loyalty to apprenticeship training wherever it is practiced. The employer gets workers who have been trained according to the methods and standards of the industry, and the apprentice has contractual guarantees for a stated wage-rate throughout training and relatively greater job stability once that training is complete.[7/]

Supportive Trends in the Development of Work Experience Opportunities

Increasing attention is being paid to how the benefits of work experience can be (i) brought to a wider range of students and (ii) expanded to include a

---

7/ F. R. Marshall and V. Briggs, The Negro and Apprenticeship.

wider range of objectives ... for example, career exploration, earlier constructive involvement of youth in society, etc.

There is increasing experimentation with the school year. The year-round school, for instance, is a program in which schools are open for 12 months with the same instructional program offered on a continuous basis instead of a 9 month school year with limited summer offerings. Possible benefits of year-round education might include an expansion of work opportunities available to students on vacation and looking for seasonal work and a chance for employers to change the work-vacation patterns of their businesses. Many employers applaud the concept of year-round school which enables them to provide more jobs on a year-round basis rather than having to deal with all job-hunting students seeking employment during the summer. Employers feel that year-round school provides students with a better shot at finding short-term jobs, as many businesses need part-time help during the fall and winter months.

Many school systems are currently investigating the year-round education concept. Twenty-five school districts have committed themselves to a year-round school program; at least 27 States are studying the concept. Although many variations are available to interested school systems, more research is needed in this area, particularly into the ways in which year-round education will affect a specific community. Each individual district will have to decide on which plan will best suit its needs and how it can be successfully adapted to its own school system.[8/]

[8/] Year-Round School: Districts Develop Successful Programs, National School Public Relations Association.

Two basic problems confronting year-round education and work experience programs are the compulsory school attendance laws and the prevailing system for allocating funds to schools based on average daily attendance figures for September through June.

In California, Colorado, Ohio, and South Carolina the minimum number of days that a school must be in session is determined by statute (as it is in most States) while in Massachusetts and Oregon the minimum is determined by regulation. (See Table 1.) About one-third of the States (including California, Massachusetts, and South Carolina) provide that schools or local boards which violate the minimum suffer a loss of State aid. At least 12 States have revised their compulsory school attendance laws in the past 4 years in order to facilitate year-round school operation. By dividing the school population into rotating groups, the aggregate annual number of compulsory school attendance days for individual pupils naturally remains the same as under the previous statute.

Many States calculate State aid to schools on the basis of average daily attendance, creating difficulties for implementation of work experience programs in which students spend as much as half of the school day outside the boundaries of the school. Revisions in average daily attendance regulations can permit more flexible use of outside work experience opportunities which relate to the educational program. In Nevada, for example, the official pupil count for finance purposes is taken once a year, with distribution of State aid to school districts based upon average total pupil enrollment rather than average daily attendance. And in Maryland, students can now spend up to

to 50 percent of their day in outside work experience without affecting the schools' credit for daily attendance. As the Commissioner of Connecticut's State Department of Education recently wrote: "State laws and regulations can and should be changed to permit innovative and experimental programs such as those envisioned under the concept of Action Learning."[9/]

Table 1. School Calendar and Compulsory Attendance Age

State	Compulsory Attendance Age Range	Pupil Instruction Days: Statute	Pupil Instruction Days: Regulation	Pupil Instruction Days: Minimum	Sanction for Violation
California	8 - 16	X		175	Loss of State Aid
Colorado	7 - 16	X		172	
Massachusetts	7 - 16		X	Established by Local Board	Loss of State Aid
Ohio	6 - 18	X		180	
Oregon	7 - 18		X	175	
South Carolina	7 - 16	X		180	Loss of State Aid

Sources: A Study of State Legal Standards for the Provision of Public Education, Lawyers' Committee for Civil Rights Under Law and Digest of Educational Statistics, 1972 Edition, NCES.

9/ W. Sanders, "Remarks on Action Learning from Point of View of State Education Agency," in American Youth in the Mid-Seventies.

SURVEY FINDINGS ON WORK EXPERIENCE

Value of Work Experience

The recent trend toward revision of laws and regulations, to allow for inclusion of work experience opportunities as part of the educational process, indicates educators' growing recognition of the value of work experience. Educators are joined by employers in assigning positive value to work experience; 68 percent of the employer survey respondents were firmly in favor of work experience.[10/] Twenty-nine percent were positive but gave qualified answers, such as "depends on type of work, particularly if related to school curriculum," while only 3 percent of the respondents had negative views and were opposed to work experience. Forty-two percent of the respondents felt that the most important benefit of employment for young people was a chance to find out what real work was like; 33 percent felt it was a chance to learn a skill with future value, while 16 percent saw it as an opportunity to earn money. Eight percent indicated that the most important benefit was a chance to learn what unskilled work was like so that it could be avoided in the future. Other benefits of employment for young people cited by respondents included: the opportunity to develop maturity and self-identity, gain self-reliance, prepare for future career direction, establish good work habits and relationships, and enjoy the stimulation of working with competent professionals. Several respondents felt that employment provided the student with a good feed-in for a job after graduation, a benefit for both the student and the employer.

[10/] Six city survey conducted by the National Manpower Institute. See Chapter VII for a full description of the survey.

What are the benefits for the employer who participates in a work experience program? Several respondents indicated that hiring work experience students is a good recruitment device, and "an excellent way to attract and retain employees." Others were interested in having young people gain experience in their company or organization because the company wished to be an active member of the community. Some employers indicated that this desire to be a part of the community included a willingness, even eagerness to become more involved in the school system itself by sending employees out to the schools as "teachers" and by participating, where appropriate, in curriculum design. In several communities, however, some employers felt that the school system was reluctant to include members of the business sector in the educational process and rejected employer offers of work experience slots and/or job training.

Work Experience Program Findings

Fifty-one percent of the firms surveyed were currently participating in school-supervised work experience programs. (Due to current economic conditions, a significant number of firms indicated they do not currently participate in such programs although they did in the past.) The breakdown of firms with work experience programs according to industry group is as follows: service - 10 firms (out of 14 surveyed); trade - 9 (out of 11); manufacturing - 8 (out of 31); finance/insurance - 7 (out of 8); public utilities - 5 (out of 9); and public administration - 1 (out of 1).

What kinds of work experience programs were most prevalent among the employers surveyed? Of those specific programs mentioned, 19 employers were

participating in cooperative education programs (high school and postsecondary level), 10 in work study programs (high school and postsecondary level), 8 in distributive education programs (high school), 2 in the Neighborhood Youth Corps, 2 in internship programs, and 1 in an apprenticeship program.

The number of students participating in individual company work experience programs was very small, ranging from 1 to 150, with an average of 23 students per company.[11/] The employers with the largest number of work experience employees were a state university medical center, a public hospital, an insurance company, a communications utility and a retail store, each of which employed 80 or more students. The number of hours worked each week by work experience program participants ranged from 10 to 40 hours, with an average of 19 hours per week. Most program work schedules fit into 1 of 3 general frameworks: 1. half-day at work/half-day in school (in the "pairs program" one job would be shared by 2 students, one working in the morning, the other in the afternoon); 2. alternating weeks semesters, or quarters at work and in school (for mainly post-secondary students); and 3. after-school and weekend hours. The jobs most frequently assigned to work experience students were clerical/secretarial work and sales.

Many of the students received both pay and academic credit for their work. Ninety-two percent of the respondents felt that students should be granted school credit for some on-the-job experience, although few employers were involved in the process of determining whether credit should be given for jobs

---

11/ Average firm size was 3,303 employees.

with their company. The schools were the sole arbiters of whether credit would be given and, if so, how much. Credit for relevant work experience is commonly granted at both the secondary and higher education levels, with the amount of credit granted depending on the character of the work experience program.

When respondents were questioned as to whether they would be interested in having young people gain experience in their firm or organization if no pay or school credit were involved, 50 percent replied negatively. Typical responses were that students should receive credit or pay as motivation and as an incentive to stay in school; that, as employees, students should get equal pay for equal work; that if no pay or credit were offered, the experience would be valueless, simply a laboratory experiment, particularly since salary is an important part of the working experience. One supervisor put it this way: "You can't supervise them if they aren't paid." Eugene, Oregon, provided an interesting example of two different approaches to the issue of pay and work experience. The Eugene school system offered students work experience for both academic credit and pay, while the neighboring Springfield school system generally offered academic credit but no pay. Both systems were proud of their programs and viewed them as very successful. One employer of Springfield students said that he trains them to be a "solid member of the bank's team." They receive no pay for the first 3 months, but they do receive a great deal of training, and at the end of the 3-month training period, the bank hires them as regular employees. The initial lack of pay does not seem to dampen the students' enthusiasm and eagerness to learn. However, this arrangement may be seen as a "deferred pay" situation.

It should be noted that not all work experience jobs necessarily relate to the student's education; not all such jobs, therefore, merit academic credit. The North Central Commission on Secondary Schools operates according to the following principles in regard to granting credit for work experience:

1. If the experience has proved educational values, it is and should be creditable.

2. The determination of whether a learning experience relates directly to secondary education, and hence merits school credit, should lie mainly in the hands of the local professional staff.

3. Those learning experiences undertaken beyond the purview of the teachers of the school need subsequently to be verified in some way by the professional staff of the school before credit is to be granted. 12/

An interesting finding of the survey reveals that employers currently participating in work experience programs tend to cite a lower minimum age requirement for hiring purposes. Fifty-three percent of the employers with work experience programs cited 16 years old or under as the minimum hiring age; only 6 percent of the employers without work experience programs cited 16 years old as the minimum hiring age. A complete breakdown is as follows:

12/ Stanvage, J., "A Paper on Non-Traditional Modes of Learning (Action-Learning) in Reference to Secondary School Accreditation," in American Youth in the Mid-Seventies.

Table 2.

Minimum Hiring Age	Employers with work experience programs	Employers without work experience programs
14	4%	--
15	--	--
16	49%	6%
17	--	12%
18	33%	65%
None	13%	18%

Employers with work experience programs also had a somewhat more positive attitude toward young workers in general; 45 percent were favorably inclined towards young workers; 48 percent felt that they were the same as other workers. One supervisor stated "there are some 17 year olds working here that are more mature than the 27 year olds." Among employers without work experience participation, 16 percent were favorably inclined towards young workers and 70 percent felt that they were the same as other workers.

The above findings tend to support the conclusion that these employers directly involved in working with young people are generally satisfied with their performance and are willing to hire younger workers, whereas those employers who are not involved in working with young people seem to have a less favorable impression of their potential contribution and are basically unwilling to hire anyone under 18. An unknown factor is the predisposition of employers to hire youth in the first place regardless of their presumed productivity. How one generation views another is more the stuff of literature than of economics. Whether one likes or hires young people may be a matter of taste -- some do and some don't.

Problems of Work Experience Programs

Although most of the employers participating in work experience programs were generally enthusiastic about the value of the programs, particularly for the student, certain problems and limitations in need of attention and improvement were cited by employers in all the cities surveyed. Among them are the following:

SCREENING AND SELECTION PROCEDURES: A number of employers felt that the screening processes utilized in work experience programs were inadequate for their needs. One employer cited high turnover rates among cooperative education students hired by the firm as an indicator of the need for more careful screening and selection procedures, as well as greater attempts at matching students with appropriate jobs. Another employer stated that with only a limited number of job interviewers, it was impossible to assign an interviewer to deal exclusively with high school work experience applicants and job development for them. He suggested that the schools could help out by providing a work experience coordinator to work directly with employers in developing appropriate screening procedures and jobs for students. In general, employers felt that there should be more cooperation between school and industry relating to jobs for youth.

WORK SCHEDULES: Several employers mentioned the need for more efficient student work schedules. Most employers would prefer a system under which the student would work a full day rather than a half day or would alternate between school and work on a quarter or semester basis. Such an arrangement would increase the student's usefulness and productivity and would result in less

"make work" for the student, involving him/her on a more regular basis in the employment setting with greater opportunity for meaningful work assignments.

INSURANCE: An issue frequently mentioned as an obstacle to establishing work experience opportunities at a particular work-site was insurance coverage. Some companies stated that even though they would like to participate in a work experience program, their insurance coverage is restricted to workers over 18 and the cost of additional coverage would be prohibitive. If arrangements could be worked out so that the school assumed liability for students while on company sites and provided the employer with a "hold harmless" clause, more companies might be willing to provide job opportunities for students under 18 years of age.

TRANSPORTATION: A related problem is that of transportation. Many students eligible to participate in work experience placements are too young to obtain licenses and must depend on public transportation or private assistance. Employers are reluctant to assume responsibility or liability for providing students with transportation, and in many areas access to public transit is limited or non-existent. An interesting finding of the survey was that 82 percent of those firms participating in work experience programs indicated that public transportation to their establishment was "good" or "adequate." Of those firms without work experience programs, only 49 percent reported that public transportation to their establishment was "good" or "adequate," while 51 percent claimed it was "poor" or "non-existent," indicating that availability of public transportation may have a direct bearing on the establishment of work experience opportunities in a particular location.

The Future of Work Experience Programs

Three million new people enter the job market every year, and many of them are poorly prepared for today's employment opportunities. Work experience is seen by employers and educators as an effective method of exposing students to the world of work and providing them with salable skills. Students are thus prepared to go on to further educational training or to obtain immediate employment. Employers benefit from the increased availability of a skilled labor reserve. In order to arrive at such an optimum situation, however, there needs to be better communication and more cooperation between business and education. Where such communication and cooperation currently exist, work experience programs are rapidly gaining acceptance and support (as, for example, in Potomac, Maryland, and Mesa, Arizona). Where no such network has been established, the problems in creating a maximally beneficial work experience environment are manifold. Business and education cannot operate successful work experience programs in isolation from each other. The future value of work experience depends, in large part, on the creation of better links between employers, educators, students, and the community in which they learn and earn.[13/]

13/ For a more complete discussion of this matter, see the forthcoming book (1975) on education-work policy by Willard Wirtz and the National Manpower Institute - The Boundless Resource, A Prospectus for an Education-Work Policy (Washington, D. C.: New Republic Book Company).

VII. The Survey Research

In 1972 the National Manpower Institute began to interview corporate employers about their hiring policies in an effort to determine the demand factors operating on the youth labor market. Usually such employers were large firms which avoided hiring people below 18 (and below 21 in many cases). NMI began its inquiry on the assumption that such avoidance of young workers was because of specific and conscious policies derived from empirical research or, at the least, from a specific body of past experience. This proved to be a false assumption, however. Conversations with representatives of 42 major firms plus a search of the literature demonstrated that youth employment policies were not being shaped by systematic research. NMI wrote at that time:[1/]

> Of the few research studies bearing on youth performance characteristics and on employer hiring practices that were identified, most do not focus specifically on youth and are typically confined to the job performance characteristics of disadvantaged workers (or other special characteristics) and to employer practices concerning them.
>
> In the main, these research projects are fragmentary and use diverse methodologies, resulting in poorly correlatable findings. No coherent picture of employer practices, nor of youth job performance characteristics emerges from these disparate studies.

Hiring policies, reflecting the absence of data, perhaps emphasized conventional wisdom about certain groups, an emphasis especially powerful in a

---

[1/] The Manpower Institute, Study of Corporate Youth Employment Policies and Practices, January 5, 1973 (Mimeo).

buyers' labor market. Youth is a special casualty of such dim perception and youthful workers, as workers, have few natural defenses or defenders. Weren't their high unemployment rates proof of their lack of motivation and skill? If there is no strong rebuttal to the position that young people are "marginal" workers then they become marginal. Like other minorities who do not exert a strong claim for equal treatment, their impotence tends to support their exclusion. A familiar and frustrating dilemma takes place. Youth cannot get a job because they lack experience and they cannot get experience because they lack a job. It is small consolation to be told that unemployment, like acne, must be out-grown.

In a way total exclusion of youth would obviate the need for a study of labor laws' effect on youth because the causality of such exclusion would be clear. This is true for workers less than 16 who can be employed only in limited circumstances, especially in non-agricultural employment. However, total exclusion does not apply to workers aged 16 and 17. Federal and State restrictions are relatively few and the majority of this age group are in the labor force even if enrolled in school. Yet it is plain from differential unemployment figures that there are strong forces impeding their finding a job, especially in certain sectors of the economy and within certain occupations.

Can one say a priori that there is an age bias? One positive answer is implied in the unemployment rates but even these can be explained away by neo-classical theory which holds that the less-efficient worker pays for lower marginal productivity through long periods of unemployment, especially if there is a floor on wages. Unfortunately, history shows that the market did not

exclude young workers until the last 40 years. It would appear that at one time employers found that the chances of hiring efficient workers at age 14 or even younger were about the same as at age 18. However, this does not reject the market as a discriminator but only qualifies it.

The situation is complex. The law and the market do interact in a variety of ways so that in questioning people who deal with the situation, one reason or the other, the market or the law, comes to mind as an explanation for high unemployment among youth. An interviewer can uncover this duality, it was discovered, by asking questions about the respondent's views or the respondent's firm's policies ("do you think child labor laws are an impediment to hiring?" and "do you have a minimum age in this firm?") as opposed to "generally speaking, from what you know about other firms, are child labor laws very important, important or not important in hiring?" A 'no' to the first two followed by a 'very important' to the third was the most common response. There is no ready explanation for this ambiguity and while the questions are different and the responses not necessarily contradictory, the interviewers felt that the phrasing mode brought out rather weakly supported attitudes.

Might there be reason for such ambiguities? The degree of competence in dealing with the subject is one answer. Respondents were not well-informed on child labor laws and, in fairness, didn't need to be insofar as most firms did not deal with the youth market. Another reason for mixing the legal and economic aspects is because these aspects have become mixed in public policy. To borrow the boxing and headache remedy metaphor -- it was "the old one-two" delivered to youth employment by the Fair Labor Standards Act of 1938. Firms

in interstate commerce were limited not only by child labor provisions but, simultaneously, by a minimum wage floor. The double effect was no accident. These were rational developments at a time of high unemployment and rising unionization but, regrettably for research, were profoundly merged in impact. In effect FLSA became the Mann Act of the youth labor market. What the society had accepted before with little qualification (child labor) became unacceptable legally or socially. Or it at least appeared to be unacceptable.

This study therefore attempts to separate the legal impact from the operation of the market for unskilled workers. If such a separation is not possible (basically it is not) then one must document the duality as it affects hiring policies.

Methodology of the Employer Survey of 1974/75

Employers were subjected to 30 minute personal interviews. Up to 3 persons per firm were interviewed. Ideally, a personnel representative, a line supervisor and an executive were to be selected from each firm. In practice, a majority of respondents were categorized as personnel officials, though enough supervisors and executives were interviewed to allow for some cross-tabulation.

Large, non-agricultural firms were contacted. A majority were in sectors known to be averse to hiring young workers and were chosen for this reason. Random selection resulting in a representative sample probably would have turned up about 10 percent of the employees as being less than 18 years of age; the forced sample used by NCEV/NMI turned up less than 3 percent and most of those were employed by a large food chain. At other times even the forced

sample might have found youth employment at about 3 to 4 percent of the employed but bad times prevailed in late 1974 and early 1975. In any case the 78 firms contacted showed little inclination, past, present or future, to dip into the youth labor market for regular employees despite the eventual finding that at least a third of their jobs were entrance-level positions with modest skill and educational requirements, if any.

Six cities were selected for national geographical representation, for certain kinds of industrial mixes and for indications of the absence or presence of work experience programs for youth. The cities chosen were: Boston, Massachusetts; Charleston, South Carolina; Cleveland, Ohio; Denver, Colorado; Eugene, Oregon; and San Diego, California. Three of the 6 cities were known to the interviewers in advance of the project and they were thus able to exploit prior contacts and increase the sample size. One of the cities was in a state (Colorado) which had recently modernized its child labor laws to facilitate the hiring of young people.

Two of the interviewers were trained in advance of the field work by participating in the planning of the entire project. One had an economics/legal background and the second an economics/education background. Both were to participate in the analysis of results. A third interviewer had considerable survey research experience and was trained in the field. Each interviewer became familiar with Federal and State labor legislation affecting youth to the extent of being able to evaluate respondents' competence. Such competence

is not difficult to acquire.[2/] Each was also asked to make subjective judgments on the attitudes of respondents toward young workers. In some cases the interviewer chose not to make judgments if no particular impression had emerged.

Each interview was conducted according to an interviewer's guide and questions were asked in a fixed sequence. The guide established the respondent's position in the firm and elicited general information about its labor force, especially characteristics of entrance-level employment and the propensity to hire young people. Questions were asked about child labor laws. These included questions about the respondent's competence in this area and then about his/her attitudes toward these laws and their purposes. Questions were asked about attitudes toward young workers and factors affecting hiring at the entrance-level. Finally, attitudes were explored on the value of work experience and work experience programs.

Each interviewer was given two weeks to develop contacts within each survey city. Letters of introduction from two major business organizations were given to the interviewers. At least two work weeks were allowed to obtain the names of firms and of individuals responsible for hiring and to conduct the actual interviews. The sample was forced in the sense that the interviewers tried to contact large firms, firms in which youth hiring was possible but

---

[2/] The collective judgment of the NMI staff is that a single day of study is more than sufficient to establish a working knowledge of Federal youth labor law plus competence in the State laws including school attendance statutes. This assumes the availability of reference materials written in lay language which are available but scarce.

unlikely. Only one large firm routinely hired large numbers of persons less than 18. As a result the amount of youth employment is small but only slightly smaller than it would be for the same cross-section of industries. As compared to the total national employment of youth, the proportion is significantly smaller because the research was not aimed at the trade and service jobs traditionally held by young workers.

Interviewers were continually informed that youth hires were down because of the business cycle, adding support to the idea that young people are both dispensable and substitutable.

In the design of the survey it was hoped that respondents would represent different positions within each firm. Categories of personnel, supervisory and executive were set up in expectation of differing responses on the origins and implementation of employment personnel policies. However it was typical of firms to permit access only to personnel people. Consequently such persons are over-represented in the results. Perhaps this kind of specialization is a finding in itself. One ensuing and quite common impression was that personnel departments tend to enforce policies whose basic assumptions have been agreed upon long ago and by someone else. NMI is mindful that such generalizing on policy roots is a vague business at best, but after two attempts at defining it one can make the idle comment that personnel policies affecting young workers appear to be ambiguous and unclear because they are in fact ambiguous and unclear.

Survey Results

Because of an emphasis on durable goods manufacturing and the inclusion of public utilities, transportation, and a large government agency, it was improbable that the proportion of employed youths would comprise more than 5 percent of total employment. In fact, the sample of over a quarter million employment in 78 firms turned up 6,638 workers less than 18 or less than 3 percent; 6,144 persons less than 18 came from a single firm, a food chain, and these were largely on part-time schedules. There was much narrative evidence that the lack of teenage employment was related to the recession in progress, work experience programs had been temporarily shelved, and many firms had a hiring freeze or were laying off workers.[3/]

Overall labor demand in all 6 cities was stagnant in 1974. Non-agricultural employment did not increase substantially from December 1973 to the beginning survey month of December 1974. Three cities (Boston, Charleston, S. C., and Eugene) showed very slight gains in total employment while the others lost jobs in the same period.[4/] Some growth in employment was registered in service-producing sectors (trade, service, government) while two cities, Charleston and

---

[3/] Eighteen and 19 year olds were not counted among young employees as employers could not supply employment data by age-group except for those less than 18 and could do so then only because 18 was an identifiable cut-off point for hiring. According to regulation 29 CFR Part 516, employers are required to record the name, address, and birth date if an employee is under 19, but this information, if in fact recorded, was not made available by respondents to the interviewers.

[4/] The unemployment rate for Boston, Charleston, Cleveland and Denver rose in 1974. Boston with 7.3 percent unemployment in January 1974 had the only rate above the national average. No later rates are available and no 1974 rates were issued for Eugene and San Diego.

Eugene, showed slight gains in contract construction employment. All cities lost jobs in manufacturing, an overall decline of 4.4 percent from December 1973 to December 1974. As the annual rate of increase for the teenage population seeking employment is about 3 percent nationally, it is logical to assume that declines in the goods-producing sectors such as construction, mining, agriculture and manufacturing would accentuate teenage unemployment rates in these areas. A definitive result would require additional research on the age structure of each urban population plus some assumptions about labor force participation rates. It is judgmental at best to claim that the demand for a single group of workers falls off due to a decline in overall demand, but interviews with persons familiar with the youth labor market were quick to confirm such a decline and even to associate it with total withdrawal from the labor market and even with rises in crimes committed by youth.

Would the results have been any different if the cities were operating under conditions of low unemployment? The nature of the firms studied indicates that youth employment as a percent of total employment probably would not have approached as much as 5 percent in such a sample. Thirty-six of 78 firms did not hire anyone under 18 as a matter of established policy and numerous others appeared not to hire them in fact. Therefore a claim of age bias is supportable even though most respondents themselves claimed otherwise.[5/] Several sets of forces are at work to reinforce such a bias. The first is that in heavily-capitalized large industries there is a tendency to mechanize at the expense

---

5/ "Age of applicant" was judged to be least important in the hiring for entrance level jobs, yet respondents went on to describe an employment system which had an 18 year old floor. Interviewers guessed that respondents felt that a minimum age was vaguely discriminatory which it is not at this time.

of low-skill jobs. Whole classes of jobs are wiped out or are redesigned and upgraded. Materials handling or data manipulation are common examples. Jobs created by mechanization often are manifest at semi-skilled levels, where entry by young, inexperienced workers is not likely. Secondly, mass production industries place emphasis on regular, full-week, non-seasonal employment. In 1973, 83 percent of the 16 and 17 year olds in the labor force were also enrolled in school and working only 17 hours per week on the average.[6/] In contrast the 16 and 17 year olds not in school worked 34.4 hours. The labor turnover associated with young workers plus the reduced likelihood of a student being offered or even being able to manage a full-time industrial work week would seem to support a part of the age bias. Such a bias does not have to be malevolent or even intentional. It is merely a regular tendency over time to "select-out" in predictable ways. Still, nearly all the firms interviewed did admit that they used seasonal, summer and part-time labor.

The survey was conducted with a sample of employers who were generally not accustomed to hiring 16 and 17 year olds. With firms reporting a total of 6,638 employees less than 18 years of age and fewer than 100 younger than 16, this meant that 1 out of 39 employees in the sample is less than 18, though 16 and 17 year olds are said to hold one job out of 28 in the entire employed civilian labor force. Such a low penetration rate of 16 and 17 year olds must be examined from the demand side. Are the kinds of jobs offered by the firms in the sample not suitable for young workers?

[6/] Bureau of Labor Statistics, USDOL. Employment of School-Age Youth, October 1973, Special Labor Force Report 170, Table A and D.

The ratio of entrance-level employment to total employment ranged from a construction low of 11 out of 100 to a high of 62 out of 100 in trade. In the aggregate, better than 1 out of 3 jobs in the survey was defined as "entrance-level." Qualitatively these jobs were described as unskilled in content, the only notable exception being a typing requirement for clerical work. It is probably reasonable to accept the proposition that a third of all available jobs in the firms studied could be held by a teenager if no other factors were present to exclude his/her employment. There need be no automatic assumption of low productivity. Even in this survey, teenage workers were judged to be as good as or better than others. As for their education, economists routinely discount the educational requirements fixed to many jobs as a function of the available supply of labor and not of the technological content. That an operative position on an assembly line is filled by a high school graduate is not proof that the position requires a secondary school diploma but only that there are high school graduates available for assembly line employment. The competence of teenagers can be suggested in still another way. The penetration rates of 16 and 17 year olds in various industries follow the general pattern of being high in trade and services and low in other non-agricultural sectors. However, if one removes a single characteristic, that of being enrolled in school, the penetration rates change radically. Youths 16 and 17 who find jobs tend to be distributed into industrial sectors in about the same porportion as the entire labor force. For example, of <u>in-school</u> youth ages 16 and 17 only 7.2 percent in 1973 were working in manufacturing while for out-of-school youth of the same age 24 percent of their number were working in that sector or about the same as for the national labor force.

The following chart, which is based on 1973 national data, shows the degree of representation of employed 16 and 17 year old workers in comparison to the rest of the labor force. Thus if 16 and 17 year olds employed in sector x were 10 percent and 10 percent of the entire civilian labor force (non-agricultural) were employed in sector x the result would be "the same."

Industry Group	Proportion of 16 & 17 year olds as Compared to Total Sector Employment. (Enrolled in school)	Proportion of 16 & 17 year olds as Compared to Total Sector Employment. (Not enrolled in school)
Mining	Same	Over-represented
Construction	Under-represented	Over-represented
Manufacturing	Very under-represented	Same
Transport & Public Utility	Very under-represented	Very under-represented
Trade	Very over-represented	Over-represented
Service incl. Fin.	Over-represented	Same
Government	Very under-represented	Very under-represented
Unemployed	Very over-represented	Very over-represented

Regrettably, the above analysis has to be taken with much qualification. The participation rates of teenagers are vastly different than the rest of the labor force. If all teenagers were available for full-time work it is likely that their industrial distribution would not look much different than the in-school distribution looks now, because the out-of-school population is much smaller than the in-school population. However, there could be an additional 3 million unemployed, as over half of the 16 and 17 year old group is not in

the labor force. Of course this is a highly unlikely situation which is mentioned only to note the enormous possible variations in supply.

What is striking is that so few youths find their way into transportation, public utilities and government. The employer survey solidly supported this finding. Exclusion from transportation might be justified because a Federal Hazardous Order prohibits 16 and 17 year olds from driving motor vehicles and working as a helper on such vehicles, and these are the major transportation occupations. But, though Hazardous Orders also prohibit 16 and 17 year olds' employment in coal and other mining occupations, some 44,000 were counted by the CPS for 1973. These findings conceal many unknown circumstances and, perhaps, some statistical oddities, but it could not be more clear that some kind of powerful age-bias is operating, especially in government employment where all youth are very much under-represented, a situation which was found to be true in the single public agency contacted in the employer survey.

With few exceptions all the firms interviewed paid considerably more than the prevailing Federal or State minimum wage. The incidence of teenage employment of significant size was in the retail trade sector and at a rate close to the Federal minimum of $2 per hour. Although this survey did not attempt to measure the influence of the minimum wage rate on youth employment, there is nothing in it that disproves the contention that inexperienced or unskilled workers find it tough to get hired at base rates well above the minimum, especially in a slack labor market. At a labor price 50 percent or more above the statutory minimum the quality of available labor can exceed the needs of the job itself. For example, a $4 an hour maintenance crew opening in a factory,

at most a semi-skilled job and often an unskilled one, attracted a number of skilled construction workers in one city. This kind of voluntary down-grading of skilled labor is common, even in relatively tight markets and for several reasons, but its effect is to outclass the inexperienced worker and especially the untried teenager. That the market often operates imperfectly is no consolation, perhaps, but it does work well in one direction, the choice of the best qualified candidate at a given wage rate.

The average entrance-wage rate[7/] was as follows:

Manufacturing, 31 firms	$3.68
Retail and wholesale trade, 11 firms	2.18
Finance and insurance, 8 firms	2.27
Services, 14 firms	2.46
Government, 1 agency	3.00
Transportation, 3 firms	3.20
Public utilities, 9 firms	3.29
Construction, 1 firm	5.00
AVERAGE, 78 firms	3.14

Interviewers did not explore the minimum wage issue in any way that would resolve this perennial controversy. However, as part of the effort to quantify what the respondents knew about labor law they were asked about the 85 percent

---

[7/] Weighted by firm employment.

wage differential available to certified establishments hiring student-learners or full-time students. A majority (54 percent) did not know such an exception existed although it has been around since the enactment of FLSA in 1938. Interestingly, although the program has been traditionally associated with retail trade, 14 out of 25 respondents working in retail trade did not know of its existence, a worse-than average response.

Respondents were asked if they thought some young workers would not work for the minimum wage, a reason often cited in discussing high rates of youthful unemployment. Only 11 out of 149 respondents cited this as "important" or "very important," a result placing it near the bottom of a list of reasons for not hiring workers less than 18. Probably this is a question better put to the workers themselves. The reluctance of youth to accept the minimum wage is legendary, if apocryphal, but respondents and other persons familiar with the youth labor market frequently said that "times are different now and people will accept what they can get," a telling comment on how a recession can reduce expectations. Asked if the demand for young peoples' services had fallen off because of the business recession, 61 respondents said 'yes,' 53 said 'no' and 35 had no opinion. Little can be made of such a response. While national statistics clearly show an increase in youth unemployment there are some consoling offsets such as the increasing popularity of fast food and other franchise operations, a prime employer of young people. And many respondents volunteered the hardy belief that "there are a lot of low-wage jobs around waiting to be filled by someone who really wants to work." The firms participating in this survey did not have any such openings. A casual labor market

does exist in which teenagers and others earn money in ways which are highly personal and discrete in the form of chores and odd-jobs and this is possibly what respondents have in mind when they claim there are unfilled openings. Still there is a big difference between a 'job' and an occasional paid task.

Hazardous Orders

Respondents in 54 firms claimed that one or more hazardous orders applied to their firm. Manufacturing was covered by hazardous orders to the greatest extent; 26 out of 31 firms were subject to such orders. Respondents generally could not identify specific orders with any accuracy but the existence of the orders was at least familiar to them. A minority of respondents had opinions on the justification of hazardous orders, 39 said the orders were justified and 24 said they were not. Forty-three percent of the individuals asked this question had no opinion or were not sure.[8/]

Thirty-one of 51 firms subject to hazardous orders did not hire persons less than 18. Of firms not subject to hazardous orders, 13 hired employees less than 18 and 8 did not.

What can be said about a result in which 3 out of 5 firms subject to such orders do not hire youth and 3 out of 5 firms without such orders do hire youth? In the first instance the result is probably important; somewhere in this result, hazardous orders are a negative influence in youth hiring. However, where

---

[8/] The question on the justification of hazardous orders was not posed in Boston.

there are no such orders in operation it is unreasonable to admit the orders as a variable when they are not a factor in hiring in either a positive or negative way.

Absent such orders, would firms remove their age floor? Respondents were asked if they would hire more 16 and 17 year olds if the laws were changed. Basically hazardous orders are the child labor laws most important to this group, though some State statutes are applicable too if they are more stringent than FLSA. Of respondents in firms subject to hazardous orders and not hiring youth less than 18, 26 of those with an opinion said they would hire more 16 and 17 year old youth and 22 said they wouldn't. The result is not overwhelming but enough to confirm hazardous orders as a considerable factor and possibly in any one firm it could be gauged as being on a level of importance with the market choice. It sustains the argument that the application of hazardous orders should be reviewed, not to sacrifice its intent, but to cleanse it of its hiring disincentive. The firms subject to hazardous orders in this study were not forbidden to hire 16 and 17 year olds but only to keep them away from performing certain operations. When the orders come to represent an employment embargo, they are functioning in conflict with the original intent of the law which was to preserve legitimate employment opportunities.

In one city, for example, there was a widespread belief that 16 and 17 year olds could not work in an establishment using elevators. Federal law does forbid workers under 18 operating non-automatic elevators <u>but</u> (and the exceptions reduce the rule enormously) this does not forbid such workers from riding in or coming near a non-automatic elevator operated by others or from operating

ar enclosed automatic elevator, of the type used by the general public. Nevertheless, if the law connects teenagers to elevators in a negative way there are bound to be misunderstandings and these negative aspects have a cumulative effect.

Competence In and Attitudes Toward Labor Law

It is relatively simple to quiz people about labor laws but knowing what to do with the answers is difficult. What respondents know about labor laws is not necessarily a measure of the laws' influence. Policemen are not constitutional lawyers but operate within a system which provides active constitutional safeguards. Still, one supposes that if an employment policy decision directed at a single group depends on a particular issue such as the law, persons executing the law would have more than a passing familiarity. Another reason is often the measurement of competence. Should respondents be ranked against each other or against some other standard?

The issue of whether persons executing hiring policy should know how that policy was established and the nuances and minutiae of the prevailing laws and regulations is certainly debatable. As the issue is important, intellectually and ideally they should know the law. Practically speaking, they don't need to if hiring youth is not critical to a firm because of a plentiful alternative labor supply. A standing decision not to hire youth can be enforced without a need to defend it internally, as a matter of organizational efficiency, or to others outside the organization, as a matter of responsible corporate behavior. After all, the policeman who needs a search warrant does not need to know how

English peasants long ago needed to protect their cottage from the king, as long as policemen know the practical limits on search and seizure and the penalties for abuse of these powers. To an important degree, interviewers began to feel that in asking specific questions about child labor laws they were involved in a trivia contest, and it must be conceded that there was a failure to find a pragmatic standard of competence, of what is known and how it is applied to current problems. Some of the interplay between interviewer and respondent was just so much idle talk about hypothetical and abstract situations.

The system for rating competence was, in the end, not based on numerical scores but on a subjective rating by the interviewers. Respondents were asked questions about labor laws, were given opportunities to give opinions and to clarify questions. Some questions were intentionally ambiguous. In several questions a "wrong" answer coming from one respondent was judged to be a "correct" answer coming from another. This is because there are many exceptions, exemptions and exclusions and a well-informed respondent could display detailed knowledge while another respondent's correct answer was only a lucky guess. For example, teenagers are excluded from mining occupations in nearly absolute language but this does not necessarily exclude clerical work performed for a mining company as long as the work is physically removed from actual mining operations. Nearly every other prohibition has some kind of similar qualification that might excuse a few young workers from coverage. And there are still many jobs which are not in "interstate commerce" just as there are jobs subject to State or local regulations which exceed the FLSA provisions. A respondent

could know a little or a lot and interviewers had to go beyond scoring multiple choices in order to find out.

Each interviewer had to make a judgment on competence on a declining scale from "excellent" to "poor." These evaluations were not made at the end of each interview but at the end of the field work and the results were based on an absolute and single standard, i.e. against the interviewer's knowledge of labor laws and not in relation to other respondents' answers.

Seventy-two percent of the respondents were judged as being "fair" or "poor" in their familiarity with child labor laws. Insofar as this is not the general population but persons who deal daily and professionally with personnel matters, this result is not very encouraging.

In order to be fair about this evaluation, additional questions were posed regarding the ability of the respondent to obtain guidance on child labor laws. The obvious first (and "excellent") choice was for respondents to call an appropriate Federal or State agency (these were checked in advance by interviewers) such as the Wage-Hour and Public Contracts Division of the U. S. Department of Labor or to consult with a company-hired or retained labor lawyer. A call to one of these would, presumably result in immediate and useful information, while calls to several other potentially less-useful sources would result in additional referrals and the possibility of misinformation. These included calls to "schools," "the mayor's office" and "colleagues" and, at the bottom "don't know who to call."

Evaluating this referral system was not easy because contacting the "appropriate agency" was not always fruitful in a couple of cities while a call to a

knowledgable colleague might well have been. Federal and State labor agencies were not always helpful. Some office personnel did not want to or could not give advice over the phone and it was usual for one level of government not to know about the laws of the other even though employers are usually subject to both. Still, the channel of contacting the enforcement agencies is the proper one and as government publicity invites inquiries, this response was judged to be an "excellent" or "good" choice. On this basis a slight majority of respondents (52 percent) were judged as "good" to "excellent" on knowing whom to call for information on child labor laws. Nine percent of respondents gave a "poor" or "don't know whom to call."

Of those 42 persons judged to have "excellent" or "good" competence in child labor laws, 20 worked in firms which hired persons less than 18, and 21 worked in firms which did not. Thirty-six of 78 firms did not hire persons less than 18, so the overall proportions are the same. Thus there is no particular association between such competence and hiring behavior, or at least no hypothesis is suggested for further research. The distribution of "excellent" or "good" competence among respondents according to their position in the firm, also follows the same distribution as the sample as a whole.

However, of the 42 respondents scoring well on competence, 27 or 64 percent worked in firms which had or have work experience programs while 15 worked in firms which didn't. As slightly over half the firms contacted had or have such programs (40 firms), the significantly better-than-average incidence of competence suggests that persons familiar with laws are also familiar with work experience programs, even though persons familiar with laws are not necessarily in firms

hiring youth.

It is a temptation to seize evidence which supports work experience programs. However statistics do not prove but only suggest relationships. That work experience programs may cause (or more likely), be caused by, a kind of positive and knowledgeable atmosphere for hiring youth is an important correlation to reflect on.

Nineteen percent of all respondents thought that, on balance, child labor laws were impediments to hiring and 64 percent thought they were not. The remaining 17 percent were not sure or gave qualified answers. Of the 42 respondents judged to have "excellent" or "good" competence the distribution was nearly identical -- 19 percent thought laws to be impediments, 62 percent thought they weren't and 19 percent gave mixed answers. In answering this question the population in question is 16 and 17 year olds. Employees 15 and under are forbidden by the law in most goods-producing activities except agriculture.

In this answer, however, are the suggestions of limits or weights of the legal factor. Let us pause for a moment from analysis and see if some policy changes are beginning to emerge. Some imagination would be helpful. Roughly 1 out of 5 respondents thought that laws were an impediment. Assume (in a slightly irrational way) that a 1:5 ratio is applicable, that in 1 out of 5 firms laws are an impediment or that 1 in 5 jobs are child labor law sensitive. The cumulative effect of Federal hazardous orders plus more-stringent-than-average State laws might approach, but would not likely exceed, this 1:5 weight

or ratio. This kind of crude judgement is reasonable as a rule of thumb in policy divination. One could maintain that in the sum of influences brought to bear on entrance-level demand, market and other influences are about 4 times larger than legal factors alone but 3 times larger or 5 times larger wouldn't mean too much in a policy analysis. For example, if society were concerned with reducing youth unemployment it would first consider aggregate labor demand factors; then it might consider changes in quality of the youth labor supply, especially lack of experience; then it might look at selective demand factors such as the limiting affects of fixed industrial routine on opportunities for school-age youth. At this latter point the role of labor law restrictions would be considered.

This ranking and weighting is crude yet reasonable, but it ought not to be confused with the most cost-effective ranking of remedies. Influencing aggregate labor demand involves imprecise "shotgun" policies involving huge costs while, conversely, interventions in labor legislation fundamentally involve only rule changes and minor costs except those connected with exposing youth to dangerous conditions. Radically adjusting the minimum wage-prevailing wage relation is a special case. The minimum wage is not really a legal issue and is only partly a youth issue.

Turning back to the data on labor law competence and familiarity, there is one final issue that has to do with the importance of the statutes as a bar to injurious conditions of work for minors. Is the law important because there are real penalties for violations? Is this deterrent effect real enough to cause changes in employment policies? Interestingly, compliance was not much of an

issue. Few of the respondents could point to or cared to point to any personal experience with youth labor law violations and it is hard to find much of an enforcement apparatus.[9/] One tends to believe that if youthful workers were economically attractive then the incidence of employers trying to evade the statutes would be high. When productivity between competing groups is about equal several kinds of competition will take place. Open shop/union shop disputes are an example; equal employment disputes another. Even licensing and certification procedures and immigration policies reflect competitive posisbilities. But youth are seen as substitutes only in limited circumstances and, possibly, only in the best of times.

Thus the survey's chief merit in describing the perceived work value of youth is to document youth's absence rather than its presence in the demand for unskilled workers. Assume that employers use the rule that the marginal cost of acquiring a worker has to be less than or equal to the additional revenue produced by that worker. Not only would wages have to be elastic (realistically, they are only partly responsive to supply and demand in the short term) in order to propel a 16 year old ontc the payroll ahead of a 21 year old, but the difference in marginal cost and marginal revenue would have to cover the possibility of penalties for violations of labor laws, as well as some other special costs.

One cannot say what these hypothetical costs are, grouped or separately, but they must appear large to employers. Yet child labor law violations them-

---

[9/] There are less than 1,000 Federal agents concerned with the enforcement of child labor standards and few, if any, do it on a full-time basis. In this country as in most others voluntary compliance is usual and labor inspection is sporadic. In a way this underlines the basic social approval enjoyed by protective labor legislation.

selves are rare which indicates that there is sketchy enforcement or no real incentive to break the law. The frequency of violations issue was approached by asking a question as to whether the respondent knew of any firm accused of or convicted of child labor law violations. Admittedly, this offers the possibility of a broad, unverifiable response and the counter-possibility of responding negatively so as not to be seen as an informer. Whatever the net result, 83 percent of the respondents did not personally know of any child labor law violations at any time. One could question if most respondents were competent to identify a violation, but this aside, it seems that there is not much "oppressive labor" that is illegal. In terms of "exploitation" much of the post-FLSA opposition to child labor prohibitions has been in activities characterized by extremely low wages and family ownership, essentially in agriculture and services. Much has changed since mill owners staffed up with children or needed to. (Today a child less than 16 seeking to work in a textile plant might have to emigrate to find one.)

Finally, respondents were asked if changes in the law would influence their hiring youth. Ninety percent said "no" in the case of 14 and 15 year olds and 59 percent said "no" in the case of 16 and 17 year olds. This, perhaps, is the best statement of how marginal analysis works. One supposes that absent the law the exclusion of youth would remain much as it is, supported only by economic reality, moral strictures, or just plain indifference.

Hiring Policies and Youth Employment

When women, blacks and other minorities began to exercise job claims, some employers reacted with anger and astonishment. "We do not discriminate," they said, "we are not racists, we support the principle of equal opportunity." A fair person might accept these protestations as being sincere while at the same time keeping sight of the obvious under-utilization of certain groups. Hiring practices may not have been "racist" or "sexist" in origin but were manifestations of an employment system which was discriminatory in practice. The poor and the socially disadvantaged lack certain attributes, mainly education and experience, and without such attributes chances for getting a job are limited.

An employment standard as a selection device can grow out of the objective needs of a job through formal or informal job evaluation. These standards can be defended. Obviously, a blind man cannot drive a truck; a bookkeeper needs to know how to calculate; a miner with claustrophobia cannot work underground and so on. The trouble is that jobs eventually take on additional characteristics, characteristics not of the job but of those who hold the job. Reference has been made earlier as to how the supply of labor upgrades the demand especially when employers have a wide range of applicants. There are two levels of hiring, minimal and preferred. In a tight labor market a minimal standard prevails and in a slack labor market, a preferred standard. Presumably the preferred standard implies higher individual productivity than the minimal standard. For entry-level jobs the assumption of high productivity for those with the highest educational attainment is questionable but is commonly used. Some differences in attributes may, in fact, make no difference at all. There

was considerable sophistication on the subject of educational attainment. A cafeteria manager said "I could fill this place with high school graduates, even with college graduates, but what they have doesn't do me any good. I need dependable, steady workers who will be here on time, day after day. A worker who does that will get ahead in food service. A dependable worker is money in the bank, an over qualified worker means trouble."

A surprising result of the survey was that employers were skeptical or uninterested in the high school diploma as a measure of potential productivity. Only 13 out of 78 firms required a high school diploma despite the recession. Apparently the currency of a high school diploma has begun to weaken.10/ Some of the reasons are painful to contemplate and are beyond the scope of this study. What could be happening at the work site is that formal education is declining as a substitute for work experience. Employers want experience, and perhaps not even specific experience, but just some kind of evidence that an applicant has functioned in a disciplined work environment. This is not good news for those teenagers, perhaps a majority, who do not have such a track record. In a recent news feature on a major network a commentator reporting from Detroit noted that "many teenagers will soon be full-fledged adults without ever having held a job of any kind."

What are the employers looking for and what reasons do they give for turning away from the youth labor pool?

Respondents were queried on characteristics of job demand and characteristics of the teenage labor supply. The employers were asked about various factors affecting hiring for entery-level jobs and, following this, about reasons

---

10/ Some respondents may have been aware that recent court decisions have approached the job discrimination issue from the point of view of educational and cultural biases being operative as hiring standards, hence illegal in impact.

given for not hiring persons less than 18. Respondents were not asked to rank factors and reasons but to evaluate each as "very important," "somewhat important" and "not important" and, for reasons for not hiring 18 year olds, an additional choice of "no opinion."

The following table ranks factors on the basis of weights of two for "very important" and one for "somewhat important."

Table 1

Factors Influencing Hiring for Entry Jobs	Weighted Value
Interviewer's judgment of applicant	160
Social responsibility of firm	127
Experience and references	106
Arrest/conviction records	65
Personal appearance	53
Physical strength	46
Applicant's need	41
Educational level of applicant	37
Test results	35
Age of applicant	12

In retrospect we found the top two factors were not particularly meaningful. Any respondent in an organization would support the judgment made by whoever was conducting the job interview so a high score is inevitable. The "social responsibility of the firm" also invites a strong response. This question was included

to see if this particular pressure was effective and so it seems to be. There is a strong suggestion that the firms in the sample, perhaps because of their size, react to external pressures. Respondents commonly made reference to equal opportunity requirements. The interviewers felt that the "age of applicant" question was also influenced by sensitivity to recent social conditions. Setting these aside, we see a ranking that shows the strength of experience and references. Nothing else is close. Arrest and conviction records might even be a bit overstated as the sample included numerous banks and insurance companies with strict bonding requirements.

If these data are valid and are not too subjective or culturally biased, an applicant with good work experience and references and no police record is in an excellent position to be hired. It would take very specific negative factors or the law to put the applicant out of contention. From prior questions we saw that entry-level demand does not normally require much in the way of specific skills so it is not hazardous to guess that experience really means "have you held down a job successfully?" As the song says "it ain't what you do but the way that you do it."

The survey then turned to what respondents thought about hiring workers less than 18. This was not an effort to contradict what had been said about hiring policy above, but in a way it became a test of consistency. Respondents displayed some ambiguous attitudes, mainly that age as a discriminator went from a low value in hiring standards to a high value in reasons for not hiring youth. Age is the prime variable in child labor laws and such laws were ranked highest as reasons for not hiring workers under 18.

Apart from the legal issue, there is something of a balance between skill/experience reasons (which are not age biases) and maturity issues (which are age biases). We suspect that these latter issues are stereotypes but that the former reflect real shortcomings.

Table 2. Reasons Given for Not Hiring Workers Under 18

Reason	Weighted Value	Number of Very Important Responses
Legal restrictions or uncertainty over legal restrictions	133	58
Can hire older worker for same task	82	30
High turnover	78	24
Reliability/maturity	76	23
Not qualified/lack of skill	73	25
Safety*	63	**
Additional supervision necessary	62	15
Absenteeism	61	17
Not punctual	33	7
Additional records necessary	31	9
Don't want minimum wage	14	3
Unpopular with other workers	9	0

*Result does not include Boston; result interpolated

**Not estimated

In both Table 1 and Table 2 a maximum value for a response is 298, i.e. if all respondents (149) designated a factor or a reason as "very important" the maximum value would be 298 (149 x 2 = 298). Only the neutral factor of "interviewer's judgment" scored better than 50 percent of the maximum in either table. One conclusion, especially from Table 2, has to be the highly disparate choices of reasons. That there can be overlap is understandable but that the reasons themselves can evoke such differing reactions is a little bewildering. Why would two individuals living in the same city, doing similar work and, presumably, having similar contact with teenagers, disagree so markedly on the characteristics of teenage job applicants?

The dispersion of results is also evident in responses from various cities. Below are the reasons from Table 2 and next to each are the cities where a majority of respondents evaluated a reason as being "very important" or "somewhat important." Cities with an (*) are those in which 75 percent or more of respondents made the above evaluation. Percentages in parentheses after each reason is the proportion of total respondents in the sample giving "very important" or "somewhat important" responses.

Table 3. Reasons Given for Not Hiring Workers Under 18; by Survey City

Reason	City where 50% or more respondents said "important" or "very important"
Legal restrictions or uncertainty over legal restrictions (75%)	Boston, Cleveland,* Denver,* Charleston,* San Diego,* Eugene*
High turnover (54%)	Charleston,* Denver, San Diego, Eugene
Can hire older worker for same task (52%)	Cleveland, Denver, San Diego, Eugene
Reliability/maturity (52%)	Cleveland, Denver, San Diego, Eugene
Not qualified/lack of skill (48%)	Cleveland, Charleston, Denver, San Diego Eugene*
Additional supervision necessary (47%)	San Diego, Eugene
Absenteeism (44%)	Cleveland, Charleston, San Diego, Eugene*
Safety (35%) (does not include Boston)	San Diego, Eugene
Not punctual (26%)	----
Additional records necessary (22%)	----
Don't want minimum wage (12%)	----
Unpopular with other workers (11%)	----

The tabulations in Tables 2 and 3 show that legal restrictions are important reasons. They are, indeed, but maybe characterizing them as common is more accurate than important; the finding needs some comment. Legal restrictions are an impersonal force and quantifiable situation standards -- either the applicant is 16 or over or he isn't, for example. There are not many gray areas in

regulatory laws. Thus, in practice, labor laws are a useful screening device which can reduce the number of applications. Other standards, such as potential productivity, attitudes toward work, accident propensity, reliability, are more difficult issues and, being difficult or impossible to quantify, are perhaps hidden behind the facade of law. Why take on the problems of breaking in young employees? Why undergo the horror of a maimed or dead youth and the consequent investigations, claims, law suits, fines, and even the possibility of jail? And isn't it true that success in an organization often depends on the evasion of trouble? In a personnel office there may be no other standard against which to gauge performance than how to avoid the bad and the unknown. This is unkind hyperbole perhaps but there is well-established truth in it.

Effort was made to differentiate legal restrictions from "uncertainty over legal restrictions" and the results are provocative. In 5 cities two-thirds of the respondents who thought labor restrictions were "important" or "very important" cited "uncertainty over the laws" as their main concern. Due to an interviewing error the results in a 6th city (Cleveland) could not be so differentiated. Nevertheless the uncertainty factor shows potential for improving quality and quantity of information available on what the laws entail. If employers knew exactly what to do, would the laws have the impact the Congress intended? There is no support in these data as to whether well-informed employers choose or do not choose to hire young workers. But good information plus social pressure to hire would seem to make a difference in many firms. It might not be expensive for government to pursue this strategy much as it has for other disadvantaged groups who need access to the world of work.

VIII. Some Policy Directions

A lot of things affect youth employment, and only one of those is the real requirement of law. A good share of the effect of laws is the result of what they are perceived to be ... or not to be ... rather than what they acually are. The real lack of experience of youth, the lack of systematic efforts to create cooperative arrangements between schools and employers for work experience, deficiencies in educational preparation, the limited exposure of employers to 17 and 18 year olds, the fear of regular workers regarding job security, the lack of specific knowledge about the terms of law, the complexity of overlapping laws, and finally the real prohibitions of those laws are all intertwined in the youth employment situation. Looking narrowly only at the content of child labor laws is not going to move matters very far.

The situation which exists today is too much the result of the divergent paths being traveled by the separate sovereignties of "work" and "education," of bureaucracies going their own ways. Both the reality and the misperceptions of the youth employment laws give even more reason to try to do something about the situation.

The major recommendation coming out of this investigation ... and other recent investigations of the National Manpower Institute ... is an effort to start a new process at the community level to bridge the gap between education and work for youth. What this means is getting those people responsible for youths' transition from school to employment working together: Employers, unions, schools, parents, young people themselves and citizens willing and able

to help. It is from such an assembly of organizations and individuals that the problems can be identified and sorted out.

When such groups assemble and assume responsibility for the rites of passage, unsuspected possibilities will emerge in areas which traditionally have been regulated; where there is such a group assembled to watch over the youth development period, the public may be able to allow more discretion in its laws, permitting greater youth participation, with assurances that sufficient protection will be provided.

Such community groups, or councils, can be greatly aided by actions which deal with uncovering and removing unnecessary barriers to youth employment and work experience programs between schools and employers, or with clarifying the frequent misconceptions of what the laws actually say. These actions are enumerated below.

1. <u>There needs to be for each State a readable and positive compendium of laws affecting youth employment, which is distributed to all employers, schools, and officials responsible for youth employment and work experience programs.</u>

A lack of information about, and understanding of, child labor legislation was widespread among the respondents to our survey, and the officials we talked to in the 6 communities. Communications, expertise and technology are such today that employers, youth, youth counselors, teachers and parents can be informed. While there is some useable information, most of it is, at the least, a little confusing, with the exception of some Federal publications which deal exclusively with requirements of the Federal Fair Labor Standards Act.

Much has been said about lack of understanding in the body of the report, and the complexity caused by the overlapping of laws. Specific examples here may help, however. In Denver, where the State completely rewrote its child labor law in 1971, few employers were aware that the law had been revised, even though the motivating force behind the revisions was to relax restrictions and reduce barriers to youth employment. In some cities, the office dispensing information on Federal child labor laws could not provide a telephone caller with the number of its State counterpart (and vice versa) and would not give out any information over the phone.

Leadership in this venture would appropriately come from the U. S. Department of Labor, perhaps in collaboration with the Office of Education in the Department of Health, Education and Welfare. The assignment should be made clearly -- to state what can be done as well as what the law prohibits.

2. The preparation of documents recommended in (1) should be the basis for development and implementation of an information program directed at employers, school and employment service counselors, administrators of work experience programs, parents, and youth seeking employment.

The confusion is great enough not to let the matter rest with the preparation of comprehensive guides to child labor laws. There needs to be a positive attempt to educate and inform. It would seem appropriate for the Departments of Labor; Health, Education, and Welfare; and Commerce to do this jointly, working with employer organizations, school systems, and manpower agencies. This effort would be greatly facilitated where communities have created the groups or councils recommended at the outset of this section.

3. The experimental relaxation of Federal prohibitions against 14 and 15 year olds working during the school day should be made standard practice.

The Department of Labor's Work Experience and Career Exploration Program (see body of report) has been evaluated and found successful. There is value to carefully planned and controlled employment exploration, and the Department of Labor showed foresight in fielding the experiment and making sure that it was rigorously evaluated. At the same time, steps should be taken to identify any barriers in State laws, and negotiations should be commenced with State officials to remove these barriers.

4. While no recommendation is made to eliminate the complications which result from dual Federal and State laws, State law should apply only to areas of employment, or aspects of employment, not already regulated by Federal law.

The situation now is that even though the Federal government has seen fit to legislate, it permits States to legislate, for the same employments, with Federal legislation nullified in cases where State law is more prohibitive of youth employment than Federal law. Federal laws and regulations change. State laws and regulations change. Which law applies in a particular situation is eventually in the province of the courts, where a body of case law has to be understood in addition to statutory law for any final certainty.

Federal law should not be preemptive; there are substantial numbers of establishments not covered by Federal law. But the "tougher of the two" rule does not serve well in the present, when the employment area of life is ... under the right circumstances ... increasingly recognized as a valuable and

valid part of development in the teen years. If the Federal government is to legislate, it ought to do so with the confidence that it has struck the appro-iate balance between protection and employment opportunity; if not, the matter should be left entirely to the States.

5. The approach to protection of youth against work hazards needs modification as a result of the Occupational Health and Safety Act of 1970.

This legislation, now with 5 years experience behind it, has altered the scene enough that "hazardous occupation orders" of the traditional type will need modification. Priority in enforcement of that legislation has gone to industries with the highest accident averages. The new safety consciousness means that no longer can whole occupations and industries ... across the Nation ... be treated uniformly in the important matter of where youth can work. The assumption of inherent risk is now open to challenge. We cannot comfortably assume that a youth is safe in an unregulated occupation performed in an establishment with extremely poor safety practices. A transition is needed from infrequently revised blanket orders to exclusions for youth based on the known performance of individual establishments.

The mechanics of making this transition would have to be worked out carefully, and probably put in place gradually. The result would be a protection system that is kept up to date both with respect to changing production methods and actual safety practices and records. In this latter regard, it is noted that the accident incidence reporting system has been greatly improved, and that fact alone provides a firmer basis than ever in the past for spotting the hazardous jobs.

6. State compulsory school attendance laws and systems for allocating funds to schools based on average daily attendance figures need revision in many States to remove barriers to work experience programs.

These barriers are discussed in Part VI on work experience. Traditional definitions of what constitutes school attendance do not always allow for the work component of work experience and cooperative education programs. They need to be changed to accommodate programs in which a planned part of the student's schooling includes part day, days, or weeks in educational settings outside the school, still allowing the schools to receive funds which would then not be keyed to traditional school attendance requirements. Some jurisdictions use formulas based on registration rather than attendance.

7. Many apprenticeship programs have minimum age requirements for entry as high as age 18. There should no age limitations beyond those already covered by hazardous orders, so that 16 and 17 year olds have access to apprenticeship entry, where they meet other qualifications for entry.

The existing situation is reviewed in Part V. In Europe, apprenticeship begins well below the age of 18. In the United States, age requirements in excess of age 16 are not set as a matter of complying with policies of the Federal Bureau of Apptenticeship and Training, but are set at the local level.

This is a matter best reviewed by the Department of Labor to see what authroity exists to remove such age restrictions. In any event, local programs should give serious considerations to removing such restrictions.

Whether or not youth of that age have the necessary ability can be demonstrated on an individual by individual basis; regular safeguards to assure adequate performance should be sufficient.

8. A complete study of the impact of those laws in which age barriers may be a side effect should me made, with recommendations for changes, where possible and appropriate.

Part V goes beyond the original scope of work contemplated in this project because of information obtained in the field about barriers as they are actually perceived or encountered. Some of these situations have been explored enough here to indicate the desirability of deeper understanding. An example would be the penalty provisions in Workmen's Compensation where minors are illegally hired, to see if it is a substantial problem, and if so whether there is or is not a remedy for it.

9. The potential use of a distinct "work experience trainee" category for private industry and government agencies should be explored jointly by, for example, the Departments of HEW, Labor and Commerce. Implicit in this category is fixed and short duration employment at rates below those prevailing for entrance level employers though at a level at or above statutory minimums.

A finding of the study documents the absence of young workers in establishments which pay a relatively high entrance wage. Young workers are thus denied access to desirable work experience. Community bodies, such as "Education-Work Councils," could explore the need and potential for introducing young people to work. Often this would require the consent and assistance of organized labor insofar as a trainee wage would be set below the negotiated base rate. Worker displacement would be minimized or eliminated through standards for maximum total hours per trainee and maximum allowable trainee employment at any one time. Such formulas are used in apprentice programs in the building-trades but are not well known in industrial settings. Responsibility for evaluating this approach may be assigned to the Cabinet Task Force on Education-Work Programs set up in response to the President's Ohio State University speech.

IX. Bibliography and Sources for Child Labor Laws

American Youth in the Mid-Seventies. Conference Report of the National Committee on Secondary Education, NASSP, November 30-December 1, 1972, Washington, D.C.

Berg, Ivar, Education and Jobs: The Great Training Robbery. Frederick A. Praeger, Inc., 1970.

Career Thresholds: A Longitudinal Study of the Educational and Labor Market Experience of Male Youth. Volumes 1 and 3, Manpower Research Monograph No. 16 USDOL, 1970-1971.

Carroll, Stephen J., Part-Time Experience and the Transition from School to Work. Rand Corporation, 1970.

Cling, Samuel G., Complete Guide to Everyday Law, Third edition. Chicago: Follet Publishing Company, 1973.

Cohen, Alan, and Steven Frankel, Data Analysis Report, An Assessment of School-Supervised Work Experience Programs. Santa Monica, California: System Development Corporation, 1973.

Digest of Motor Laws, forty-second edition. AAA, 1975.

"Digest of the California Child Labor Laws, 1965." State of California, Department of Industrial Relations, Division of Labor Law Enforcement.

The Effects of Laws Governing Youth Employment and School Attendance on Youth Offenses and Delinquency. Stanford Research Institute, Menlo Park, December 1965.

Entry into the American Labor Force, prepared for Manpower Administration, Office of Education by Johns Hopkins University. Springfield, Va.: NTIS, September 1971.

Flanagan, John C., et al., Five Years after High School. Project Talent. Final Report. Pittsburgh: American Institutes for Research and the University of Pittsburgh, 1971.

Forthman, Robert C., Hardcore Youth Unemployment. Springfield, Va.: NTIS, October 1970.

Frankel, Steven, Executive Summary, An Assessment of School-Supervised Work Education Programs. Santa Monica, California: System Development Corporation, 1973.

Ginzburg, Eli, Career Guidance: Who Needs It, Who Provides It, Who Can Improve It. New York: McGraw-Hill Book Company, 1971.

Gold, Larry, A Review of Federal and State Child Labor Laws, Other State Laws Regulating Hours and Conditions of Work for Youth and Some Comments on the Possible Impediments of Such Laws to Youth Employment. Policy Paper, ASPER/USDOL, 1972.

"High Spots in State School Legislation, January 1-August 31, 1973." NEA-Research, 1973.

Kaufman, Jacob, et al., The Role of the Secondary Schools in the Preparation of Youth for Employment. University Park, Pennsylvania: Institute for Research on Human Resources, Pennsylvania State University, 1967.

Laws Governing Employment of Minors in New York State. State of New York, Department of Labor, Division of Labor Standards, October 1972.

Marshall, F. Ray, and Vernon Briggs, Jr., The Negro and Apprenticeship. Baltimore: Johns Hopkins Press, 1967.

New Generation, Volume 53, No. 2. Child Labor Issue.

Occupational Licensing and Public Policy. Princeton, N.J.: Educational Testing Service, 1972.

Orton, Eliot Smith, Inexperienced Workers in the Labor Market. Springfield, Va.: NTIS, April 1971.

Rehman, Arnold, Legal Issues in Experience Based Career Education. A Research Report Submitted to NIE. Minneapolis, Minnesota: ARIES Corporation, May 1, 1974.

Smith, Lewis, H., An Investigation into The Extent and Causes of Geographic Mobility Among Selected Young Workers. Springfield, Va.: NTIS, August 1971.

State Constitutional Provisions and Selected Legal Materials Relating to Public School Finance. U. S. Department of Health, Education and Welfare/Office of Education. Washington, D.C.:GPO, 1973.

State Licensing in Health Occupations, U.S. Public Health Service, Department of Health, Education and Welfare. Washington, D.C.:GPO, 1968.

Stromsdorfer, Ernst W., An Economic Analysis of the Work Experience and Career Exploration Program (WECEP). Indiana University, July 1973.

Stromsdorfer, Ernst W., and James S. Fackler, An Economic and Institutional Analysis of the Cooperative Vocational Education Program in Dayton, Ohio. Indiana University, 1973.

Study of Corporate Youth Employment Policies and Practices. The Manpower Institute, January 5, 1973 (Mimeo).

A Study of State Legal Standards for the Provision of Public Education, Prepared for NIE by the Lawyers' Committee for Civil Rights Under Law. October 1974.

Supplemental Studies for the National Advisory Commission on Civil Disorders. Washington, D.C.:GPO, 1968.

"A Teenager's Guide to Employment," Department of Industrial Relations, State of Ohio, August 1972.

U.S. Department of Labor, Employment Standards Administration, Handy Reference Guide to the Fair Labor Standards Act (WH Publication 1282), Revised 1975.

_____, _____, A Guide to Child Labor Provisions of the Fair Labor Standards Act (WH Publication, Child Labor Bulletin No. 101), 1973.

_____, _____, Agriculture and the Child Labor Requirements under the Fair Labor Standards Act (Child Labor Bulletin No. 102), May 1970.

_____, _____, Working Children, A Report on Child Labor (WH Publication 1323 (revised)), May 1972.

_____, _____, Employment Relationship under the Fair Labor Standards Act (WH Publication 1297, (revised)), February 1973.

_____, _____, It's Easy to Hire Teen-Agers, GPO:1971.

_____, Wage Hour and Public Contract Division, Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et. req.); WHPC 1167, November 1966.

_____, Bureau of Labor Statistics, Youth Unemployment and Minimum Wages. Bulletin 1657. 1970.

_____, _____, Monthly Labor Review, "Youth Unemployment and Minimum Wages" by Thomas W. Ganett.

_____, _____, Monthly Labor Review, "Changes in State Labor Laws" by Sylvia Weissbrodt. Summary article appearing each January since 1965.

_____, _____, Employment of School-Age Youth October 1973, Special Labor Force Report 170.

_____, Bureau of Labor Standards, State Child Labor Standards (Bulletin 158), 1965. Out of print.

_____, _____, Growth of Labor Law in the United States, 1967. Especially "Child Labor Laws" pp. 7-53 and "Minimum Wage Legislation" pp. 69-93.

Work Experience as Preparation for Adulthood: A Review of Federal Job Training, Vocational, and Career Education Programs, An Analysis of Current Research, and Recommendations for Future Research. Washington, D.C.: Social Research Group, The George Washington University, May 1973.

Year-Round School: Districts Develop Successful Programs. Washington, D.C.: National School Public Relations Association, 1971.

Youth: Transition to Adulthood. Report of the Panel on Youth of the President's Science Advisory Committee. University of Chicago Press, 1974.